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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1954

No. 250

ANTHONY TONY SICURELLA, PETITIONER,

vs.

UNITED STATES OF AMERICA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

PETITION FOR CERTIORARI FILED JULY 30, 1954

CERTIORARI GRANTED OCTOBER 14, 1954

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**STATEMENT UNDER RULE 10(b) OF THE
RULES OF THE UNITED STATES COURT
OF APPEALS FOR THE SEVENTH CIRCUIT**

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

Eastern Division
(Caption—53 CR 288)

* * *

NOW comes ANTHONY TONY SICURELLA, the defendant-appellant in the above entitled cause, by KARL M. MILGROM, his attorney, and pursuant to Rule 10 (b) of the United States Court of Appeals for the Seventh Circuit, states as follows:

1. This proceeding was commenced by the filing of an indictment by the Grand Jury on April 17, 1953;

2. The indictment named ANTHONY TONY SICURELLA as a defendant. The other party to the suit and named in the indictment caption was the UNITED STATES OF AMERICA;

3. The defendant entered his plea of not guilty on June 2, 1953;

4. Following the indictment and pending trial, the defendant was allowed to remain at liberty by the trial court, the defendant being then admitted to bail taken in the amount of ONE THOUSAND DOLLARS (\$1,000.00);

5. The trial was had on September 23, 1953, without a jury before the Honorable MICHAEL L. IGOE, Judge of the United States District Court;

6. Said Judge MICHAEL L. IGOE on September 23, 1953, found the defendant, ANTHONY TONY SICURELLA, guilty as charged in the indictment and sentenced the defendant to two (2) years imprisonment, the execution of such sentence being then stayed for ten (10) days, and the defendant being allowed to remain at large during that time on the ONE THOUSAND DOLLAR (\$1,000.00) bond previously executed by him;

7. On October 1, 1953, the defendant, ANTHONY TONY SICURELLA, filed a notice of appeal; and

8. On October 2, 1953, the trial court admitted the defendant to bail then taken in the amount of ONE THOUSAND DOLLARS (\$1,000.00) pending appeal to the United States Court of Appeals for the Seventh Circuit.

Karl M. Milgrom
Attorney for Defendant-Appellant

* * *

DOCKET ENTRIES

(To and including October 26, 1953)

(Caption—53 CR 288)

* * *

Date	Proceedings	
	Vio: Universal Military Training and Service Act. Sec. 462, T. 50 Appendix U. S. C.	
		* * *
4-17-53	Filed Indictment (1) (JS-2)	15.00 US
4-17-53	Order to issue bench warrant and fix bond at \$1,000.00 - BARNES, J.	
4-17-53	Issued bench warrant with copy of indictment. mk.	
4-21-53	Filed appearance bond \$1,000.00	s
4-28-53	Filed wattant retd exctd \$2.00	
6-2-53	Defendant without counsel enters a plea of not guilty. Cause set for trial on June 22, 1953 - Igoe, J	
6-4-53	Mld ntes US & deft	s
6-22-53	Cause held on trial call subject to trial on June 29, 1953 - Igoe, J	
6-23-53	Mld ntes US & deft	s
6-24-53	Filed appearance of Karl M. Milgrom	s
6-29-53	On defendants motion cause reset for trial on	

- Sept. 14, 1953 - Igoe, J
- " " " Mld nte
- 9-14-53 By agreement cause reset for trial on Sept. 23, 1953 - Igoe, J.
- 9-14-53 Mld nte s
- 9-23-53 File subpoena d. t. (Otto Kerner, Jr. & Kline Weatherford) ret'd served
- 9-23-53 Motion of the Government that subpoena duces tecum served upon Mr. Otto Kerner, Jr., United States Attorney, and Mr. Kline Weatherford, Agent in charge of the Federal Bureau of Investigation for this district be quashed is argued and allowed. Defendant given leave to file affidavit in opposition to said motion - said subpoena duces tecum are hereby quashed - Igoe, J.
- 9-23-53 Filed Affidavit (3)
- 9-23-53 Filed motion for judgment of acquittal (4)
- 9-23-53 Filed Jury Waiver
- 9-23-53 Cause called for trial. Jury waived and Jury Waiver signed and approved. Evidence heard for Government-Government rests-evidence heard for defendant-defendant rests-at the close of all the evidence defendant moves for judgment of acquittal-said motion is argued and overruled-Court enters a finding of guilty -defendant committed to the custody of the Attorney General for a period of Two (2) Years. Stay of execution granted on defendant's motion for 10 days (draft) JS3 Bond on Appeal fixed in the sum of \$1,000 - Igoe, J.
- 9-24-53 Mld ntes
- 9-24-53 Issued commitment & copies to U. S. Marshal s
- 10-1-53 Filed Notice of Appeal of Defendant (1) 5.00 pd
- " Mailed Copy of Notice of Appeal to U. S. Atty. and copy with statement of docket entries to U. S. C. A.-7th Circuit B

INDICTMENT

(Filed April 17, 1953)

(Caption—53 CR 288)

• • •

The April 1953 Grand Jury charges:

That on or about the fifth day of March, 1953, at Chicago, Illinois, in the Northern District of Illinois, Eastern Division,

ANTHONY TONY SICURELLA,

defendant, being a male person who is required to and did register under the provisions of the Universal Military Training and Service Act, and who duly became a registrant with Local Selective Service Board Number 14, 226 West Jackson Boulevard, Chicago, Illinois, and was duly classified in Class I-A, and was ordered to report for induction by said Local Board, and who did report for induction as ordered, and was examined and qualified for induction, and who was thereupon charged with the duty of submitting to induction, in accordance with the provisions of the Universal Military Training and Service Act, and the rules and regulations thereunder, more particularly Regulation 1632-14(b)(5), then and there unlawfully, wilfully, knowingly and feloniously did neglect and fail and refuse to perform the duty of submitting to induction; all in violation of the Universal Military Training and Service Act, Section 462, Title 50, Appendix, United States Code.

A TRUE BILL:

Dale E. Koerner

Foreman

Otto Kerner Jr

United States Attorney

• • •

SUBPOENA DUCES TECUM

(Filed September 23, 1953)

Case No. 53 CR 288

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

The President of the United States of America

To OTTO KERNER, JUNIOR, United States District Attorney; and KLINE WEATHERFORD, Agent in Charge of the Chicago Office of the Federal Bureau of Investigation;

—GREETING:

WE COMMAND YOU, that all business and excuses being laid aside, you and each of you attend before the Honorable MICHAEL [L.] IGOE, one of the Judges of the United States District Court for said District, on the twenty third (23rd) day of September, A. D. 1953, at 10:00 o'clock in the forenoon and from day to day thereafter until the below mentioned cause is determined in Room 627 United States Court House in Chicago, in said District, to testify and *given* evidence in a certain cause now pending and undetermined in said Court, wherein UNITED STATES OF AMERICA is Plaintiff and ANTHONY TONY SICURELLA, Defendant, on the part of said ANTHONY TONY SICURELLA And that you also diligently and carefully search for, examine, and inquire after and bring with you, and produce at the time and place aforesaid, a certain Federal Bureau of Investigation investigative report submitted to ROY WEST, as Hearing Officer of the United States Department of Justice, in connection with the hearing conducted by said Hearing Officer relating to the conscientious objector Selective Service status of said ANTHONY TONY SICURELLA, And this you shall in nowise omit, under the penalty of the law in that case made and provided.

To the Marshal of the Northern District of Illinois to
execute and return in due form of law.

Roy H. Johnson

Clerk

By William E. Keeley Jr.

Deputy Clerk

SEAL

CCPY

Dated: 9-16-53

* * *

* * *

**AFFIDAVIT IN OPPOSITION TO MOTION
TO QUASH SUBPOENA**

(Filed September 23, 1953)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
Eastern Division

(Caption—53 CR 288)

* * *

STATE OF ILLINOIS }
COUNTY OF COOK } ss.

KARL M. MILGROM, being duly sworn upon his oath, deposes and says:

I am a member of the bar of this Court. My offices are at 19 South La Salle Street, Chicago 3, Illinois. I am the attorney of record for the defendant herein;

The defendant is charged by indictment with the offense of a violation of Title 50, Appendix, Section 462, United States Code, in refusing to submit to induction. The defendant has pleaded not guilty. Upon trial the defendant will contend that a judgment of acquittal ought to be en-

tered because the draft board order commanding him to appear for induction is void because the draft boards violated the rights of defendant and illegally denied his claim for deferment as conscientious objector, opposed to both combatant and noncombatant service. The defendant expects to show that the actions of the local board and appeal board are illegal, arbitrary and capricious. He will attempt to show that the determination of the Special Assistant to the Attorney General in finding that the defendant was not a conscientious objector, opposed to both combatant and noncombatant military service, is without basis in fact, contrary to law, arbitrary and capricious;

Pursuant to the requirement of Section 6(j) of the Universal Military Training and Service Act, the Department of Justice made an inquiry as to the defendant before hearing was held by the hearing officer. This inquiry was conducted by one or more Federal Bureau of Investigation agents, the name or names of whom are unknown to the defendant. The results of the inquiry were reduced to writing and made into a report to the hearing officer who affiant is informed and believes, recommended a I-O classification for defendant, which classification was that of a conscientious objector opposed to both combatant and noncombatant military service. The defendant, requested the hearing officer to be allowed to see said report, and also requested the hearing officer to be advised as to such report's contents, and that both of said requests were refused. The report will show, affiant is informed and believes, and so states the fact to be, that the defendant is such a conscientious objector and entitled to such I-O classification. It is necessary that the defendant examine and see such report and have the opportunity of offering it in evidence at his trial, in order to properly defend at the trial of the indictment in this case;

The report, upon information and belief, is in the hands of either the United States District Attorney or the Agent in Charge of the Chicago Office of the Federal Bureau of Investigation. Each of these persons has been duly served

with subpoena duces tecum to produce such report upon the trial of this action;

The defendant is not engaged in a fishing expedition. The production of the Federal Bureau of Investigation report and the giving of testimony required by the subpoena are material and necessary for the defense to the indictment upon the trial of this case. They will show affiant is informed and believes and so states the fact to be, that defendant is as a matter of law, a conscientious objector and not liable for unlimited service. Even though the report sought by the subpoena may be claimed to be confidential by the Government, it must be produced because such document is a part of the administrative determination and action supporting the indictment which is questioned by the defendant;

Since the validity of the administrative determination cannot be established unless and until there is such examination of, and opportunity to offer, the entire administrative record and testimony relied upon by the Department of Justice, which Department recommended the denial of the claim for classification as conscientious objector opposed to all military service, it is necessary for the Court to deny the motion to quash the subpoena; and

If the motion to quash the subpoena is granted, the defendant will be deprived of right to due process of law, contrary to the Fifth Amendment to the United States Constitution and rights guaranteed by the Selective Service Regulations and Rule 17(a) (c) of the Federal Rules of Criminal Procedure.

Karl M. Milgrom

Subscribed and sworn to before me
this 23rd day of September, 1953.

Emma E. Jacob
Notary Public.

ORDER TO QUASH SUBPOENA DUCES TECUM

(Filed September 23, 1953)

Igoe, J.

September 23, 1953

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
Eastern Division

(Caption—53 CR 288)

* * *

This day comes the United States by the United States Attorney comes also the defendant Anthony Tony Sicurella by his counsel and the Government by the United States Attorney enters herein its motion that subpoenas duces tecum served herein upon Mr. Otto Kerner, Jr., United States Attorney and Mr. Kline Weatherford, Agent in Charge of Federal Bureau of Investigation, for this District and the Court having heard the arguments of counsel and being fully advised in the premises it is

ORDERED that said motion be and the same is hereby allowed and it is

FURTHER ORDERED that leave be and is hereby given to the defendant to file affidavit in opposition to said motion and that said subpoenas duces tecum be and they are hereby quashed

* * *

MOTION FOR JUDGMENT OF ACQUITTAL

(Filed September 23, 1953)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
Eastern Division

(Caption—53 CR 288)

* * *

Now comes the defendant, ANTHONY TONY SICURELLA and moves the Court for a judgment of acquittal for each and every one of the following reasons:

1. There is no evidence to show that the defendant is guilty as charged in the indictment.

2. The Government has wholly failed to prove a violation of the Act and Regulations by the defendant as charged in the indictment.

3. The undisputed evidence shows that the defendant is not guilty as charged.

4. The denial of the claim for exemption as a minister of religion by all of the draft boards, and each of them, is without basis in fact, arbitrary, capricious and contrary to law.

5. The denial of the ministerial classification is illegal, arbitrary and capricious because the draft boards employed artificial standards in determining what constitutes a minister of religion within the meaning of the Act and Regulations; and they did not follow the definition of the term used in the Act and Regulations in determining the claim of the defendant as a minister of religion.

6. The denial of the ministerial classification by the draft boards was arbitrary and capricious because they illegally held that Jehovah's Witnesses and the Watchtower Bible and Tract Society, Inc., do not constitute a recognized religious organization under the Act and Regulations.

7. The denial of the ministerial classification by the draft boards was arbitrary and capricious in that they held

that the performance of secular work by the defendant, alone, without determining whether it was his avocation and used his performance of secular work to defeat illegally his ministerial status because the undisputed evidence showed that he is not engaged in secular work as a main business but only incidentally to his main work of the ministry, and that, according to the Act and Regulations he is regularly and customarily engaged in teaching and preaching the doctrines and principles of a recognized church and pursues such preaching work as his vocation and does not preach incidentally to the performance of any secular work; and therefore the draft board order is illegal, contrary to law and without basis in fact.

8. The denial of the conscientious objector status by the local board and the board of appeal and the recommendation by the Special Assistant to the Attorney General to the board of appeal were without basis in fact, arbitrary, capricious and contrary to law.

9. The recommendation of the Special Assistant to the Attorney General to the board of appeal is arbitrary, capricious and illegal because it refers to artificial, fictitious and unlawful standards not authorized by the Act and Regulations and advises the appeal board to classify according to irrelevant and immaterial lines in determining that the defendant was not a conscientious objector when a pursuit of the Act and Regulations was the only thing for the Special Assistant to the Attorney General and appeal board to follow.

10. The undisputed evidence at the trial and the draft board records received into evidence show that there was a violation of procedural rights of the defendant before the local board on personal appearance because, at the time he appeared before the board, they had their minds made up not to reconsider his case and all of his claims de novo and they merely heard and listened to him with the intention of giving him the same classification given to him before the personal appearance so that he could appeal; accordingly, there was no de novo classification by the local board upon

personal appearance as though he had never before been classified which violated the Regulations.

11. The undisputed evidence shows that the local board failed to give the defendant a full and fair hearing upon the occasion of his personal appearance and it denied him the right to go through his file and point out the parts of the file that the board had overlooked, denied him the right to give new and additional evidence on his ministerial status and his conscientious objector claim and refused him the right to argue and to discuss his classification as required by Section 1624.2 of the Regulations.

12. The undisputed evidence shows that upon the trial the draft board members were prejudiced and discriminated against the defendant because of his membership in Jehovah's Witnesses, a religious organization, contrary to Section 1622.1(d) of the Regulations.

13. The use of the secret investigative report of the Federal Bureau of Investigation without notifying or confronting the defendant with the substance of, or the parts of it, which were considered by or relied upon by the hearing officer upon the occasion of the hearing before the Department of Justice hearing officer and also the failure to include all of the evidence in the Federal Bureau of Investigation report relied upon by the hearing officer and all that appeared in the Federal Bureau of Investigation report and that was considered by the hearing officer, and also the failure to put all of such evidence in the Federal Bureau of Investigation report in the draft board file for the use of the board of appeal and the court, constitutes a deprivation of defendant's rights to procedural due process of law in violation of the Fifth Amendment to the United States Constitution and also is a clear and unequivocal violation of the Universal Military Training and Service Act and the Regulations promulgated thereunder. (Section 1622.1(b)).

14. The failure of the court to compel the production of the Federal Bureau of Investigation investigative report, and the order of the court sustaining the motion to quash the subpoena duces tecum made by the Government, constitute

a deprivation of the defendant's rights to due process of law upon criminal trials contrary to the Fifth Amendment to the United States Constitution and the right to confrontation guaranteed by the Sixth Amendment, and also violate the statutes and rules of court providing for the issuance of subpoenas in behalf of defendants in criminal cases.

15. The undisputed evidence at the trial shows that although the local board on the defendant's personal appearance believed him to be exempt as a minister of religion, that board denied him such ministerial classification because of the views the local board believed held by other Selective Service officials, such denial being in violation of Section 10(b) (3) of the Act and Section 1622.1(c) of the Regulations.

16. The undisputed evidence at the trial shows that although the local board on the defendant's personal appearance believed him to be exempt as a minister of religion, that board denied him such ministerial classification, such denial being in violation of Section 10(b) (3) of the Act and Section 1622.1(c) of the Regulations.

17. The error of the court in excluding evidence tendered, by the defendant going to show prejudice exhibited by a local board member immediately before the defendant's hearing before the local board on July 14, 1952.

Karl M. Milgrom
Attorney for Defendant

• • •

JUDGMENT AND COMMITMENT

(Filed September 23, 1953)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
Eastern Division

(Caption—53 CR 288)

* * *

This cause this day being called for trial comes the United States by the United States Attorney comes also the defendant Anthony Tony Sicurella in his own proper person and by his counsel and the defendant being informed by the Court of his right to a trial by Jury waives that right in writing in open Court the United States Attorney consenting thereto and the Court approving such waiver and thereupon this cause is submitted to the Court for trial without a Jury and the trial proceeds and at the close of all the evidence the defendant by his counsel moves for a judgment of acquittal and the Court having heard the arguments of counsel and being fully advised in the premises it is

ORDERED that said motion be and the same is hereby overruled and the Court now having heard all the evidence adduced and being fully advised in the premises finds the defendant guilty as charged in the Indictment filed herein against him and the defendant being asked by the Court if he has anything to say why the sentence and judgment of the Court should not now be pronounced upon him and showing no good and sufficient reasons why sentence and judgment should not now be pronounced it is therefore considered and

ORDERED AND ADJUDGED by the Court and is the sentence and judgment of the Court upon the finding of guilty that the defendant ANTHONY TONY SICURELLA be and he is hereby committed to the custody of the Attorney General of the

United States or his authorized representative for and during the term and period of Two (2) YEARS and it is

FURTHER ORDERED that execution of sentence be and the same is hereby stayed for a period of 10 days.

Igoe

United States District Judge

September 23, 1953

* * *

TRANSCRIPT OF PROCEEDINGS

(Filed November 5, 1953)

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

Eastern Division

(Caption--53 CR 288)

* * *

TRANSCRIPT OF PROCEEDINGS had in the above-entitled case taken before the Hon. MICHAEL L. IGOE, one of the Judges of said court without a jury in his court room in the United States Court House at Chicago, Illinois, on September 23, 1953, at 10:00 o'clock a.m.

* * *

[Tr. 38]

MR. MILGROM: Your Honor, I would like at this point to call your attention to the fact that in my opening statement we

[Tr. 39]

admitted the failure of the defendant to submit to induction, and I should think that if that is what Mr. Parsons wants to prove with this witness, it would serve no purpose.

THE COURT: I understand he wants to prove by putting this witness on that the defendant refused to submit to induction?

MR. PARSONS: That is the offer.

THE COURT: You admit that happened?

MR. MILGROM: That is right.

THE COURT: Then there is no need of this testimony.

MR. PARSONS: The government heretofore has acknowledged but not accepted the offer to stipulate to the effect that the defendant has refused to submit to induction, but the government will accept a stipulation at this time providing that it states that this witness would testify the registrant was given not only the first opportunity to submit induction but he, after having the law read to him and subsequently an offer made for him to submit to induction, he then refused to submit.

[Tr. 40]

MR. MILGROM: We will so stipulate, your Honor.

THE COURT: Very well.

* * *

[Tr. 41]

Wednesday, September 23, 1953
2:00 o'clock p.m.

* * *

[Tr. 42]

ANTHONY TONY SICURELLA,

called as a witness in his own behalf, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MILGROM:

Q Will you state your name?

BY THE WITNESS:

A Anthony Tony Sicurella.

Q Will you speak louder so the Judge can hear you?

A Yes, sir.

Q You are the defendant in this case?

A Yes, sir.

Q Where do you reside, Mr. Sicurella?

A 2642 North McVickers, Chicago, Illinois.

Q What is your age?

A 26.

Q Are you single or married?

A Single.

[Tr. 43]

Q Will you state the members of your family, please?

A My father is Tony, Tony Sicurella. My mother is Mrs. Tony Sicurella, my sisters are Jennie and Frances Sicurella, and I have three brothers, Pat Sicurella, Joseph Sicurella and Mike Sicurella.

Q What is your vocation?

A That of a minister.

Q Do you have any other activity?

A I engage in secular work which goes in with my ministry.

Q Are you an ordained minister?

A Yes.

Q When were you ordained?

A At about 1940.

Q Who appointed you?

A The Watch Tower Bible and Tract Society by Mr. Seeley.

Q What is the "Watch Tower Bible and Tract Society"?

A It is God's governing body here on earth.

Q Of the Jehovah Witnesses?

A Jehovah Witnesses, yes.

Q What is the religious faith of your parents?

A Jehovah Witnesses.

Q How long have they had that faith to your knowl-

edge?

[Tr. 44]

A Every since early childhood.

Q Your early childhood?

A Yes.

Q Were you brought up in that faith?

A Yes, I was.

Q You are registered with Local Draft Board 150?

A I am registered with Local Draft Board 14.

Q Is it 14?

A Yes.

Q Pardon me.

What is the address of Local Board 14?

A 226 West Jackson Blvd., Chicago, Illinois.

Q When did you file your selective service Questionnaire 100 with that Board?

A In about January of 1949.

Q What classification, if any, did you then claim?

A That of a minister, 4-D.

Q On that Form you did not claim "CO" status, did you?

A No, not at that time.

Q Why did you claim that status?

A Because I thought I had to claim either 4-"D" or 1-O, so I claimed the more important one to me, that of 4-D.

[Tr. 45]

Q Now, you filed a CO Form 150 with your local Board?

A Yes, I did.

Q And you claimed therein by reason of your religious training and belief as a conscientious objector to be opposed in any form of war?

A Yes.

Q You did so claim?

A Yes.

Q In that Form you also claimed to be a conscientious objector opposed to both combatant and non-combatant training and services in the Armed Forces?

A That is right.

Q What kind of a classification have you received from the local Board?

A 4-D and 1-A.

Q How many times were you classified 4-D?

A Two times, sir.

Q How many times were you classified 1-A by your local Board?

A About five times, sir.

Q What was the date when you received notice of your classification after you were classified last 1-A by the local Board?

[Tr. 46]

A The last date of the 1-A?

Q The time when you were last notified by the local Board that you were classified 1-A?

A That was in July, 1952.

Q Could it have been July 16, 1952?

A That is right, sir.

Q Did you have a hearing before your local Board immediately before they classified you?

A Yes, I did.

Q What was your classification before that hearing, immediately before it?

A I-A.

Q Now, this hearing that you just referred to where did it take place?

A At 226 West Jackson Blvd., Room 201.

Q That is in Chicago, Illinois?

A Yes, sir.

Q In what part of the building did the hearing take place?

A It was in the main office.

Q On what floor?

A The second floor.

Q When was the time of the hearing?

A It was scheduled for 8:00 o'clock.

[Tr. 47]

Q On what day?

A I don't recall the day.

Q Could it have been July 14, 1952?

A That is right, sir.

Q It was scheduled for 8:00 p.m.?

A Yes, sir.

Q Now, what persons, if any, went with you to that hearing?

A I was accompanied by my two brothers, Joseph Sicurella and Pat Sicurella.

Q What did you and your brothers do immediately before the hearing?

A We were told to have seats there, and we waited outside, in the outer office.

Q That is, you waited immediately outside of the hearing room?

A That is right, sir.

Q Now, you were seated, I take it, while you were waiting?

A Yes.

Q Which way were you facing?

A We had our backs at some partition they had in the office.

Q The partition between the waiting room and the
[Tr. 48]

hearing room?

A Yes.

Q That partition was about how tall? That is, what was the distance of the partition from the floor upwards?

A About eight feet, I would say.

Q What was the total height of the room, if you remember, about?

A Approximately,—about 15 feet.

Q What kind of a partition was it?

A It was fiber cardboard.

Q Now, while you and your brother were sitting there

waiting for this hearing did you observe anybody come out of the hearing room?

A Yes, we did. I looked at the door of the partition and I saw Mr. De Leonardis stick his head out of the door.

Q Who was Mr. De Leonardis?

A He was one of the Board Members.

Q Now, while you were so sitting outside of the hearing room, after you saw Mr. De Leonardis stick his head outside, what, if anything, did you hear?

MR. PARSONS: I object, your Honor. I think this is the proper place to interpose

[Tr. 49]

an objection.

(Whereupon Mr. Parsons argued his objection, following which Milgrom argued in opposition—not transcribed.)

THE COURT: Let me see if I understand this situation. The man whose statements he was to put into the record here—what was he, a member of the Board?

MR. PARSONS: He was a member of the local Board.

THE COURT: The local Board, not the Appeal Board?

MR. PARSONS: Not the Appeal Board.

THE COURT: Objection sustained.

MR. MILGROM: Let me just raise this point: I think, if I may point out to your Honor, that when the local Board does not have jurisdiction to begin with under the Estep case which we are trying to show by virtue of the fact that prejudice existed that makes everything else that follows afterwards in the Selective Service process void.

[Tr. 50]

Certainly, it is necessary for a proper classi-

fication of 1-A upon which to base an order of induction that the local Board have jurisdiction over the issue.

Now, if I can show prejudice, to begin with, on the part of the Local Board, it is without jurisdiction, then everything else falls in the selective service process and is void.

THE COURT: You may make your offer of proof so it will be in the record, but I will sustain the objection.

MR. MILGROM: There are other authorities your Honor. You have not heard all of them but I make my point with the Estep case.

THE COURT: Yes.

You may make your offer of proof.

MR. MILGROM: I offer to prove by this witness that while he and the two brothers were sitting outside of the hearing room, where the hearing was subsequently held about ten minutes later—

THE COURT: That is the appeal hearing you are talking about?

MR. MILGROM: No, I am talking about the

[Tr. 51]

hearing before the Local Board.

THE COURT: Yes?

MR. MILGROM: That the defendant heard Mr. De Leonardis, a member of the Local Board, say, "The Sicurella boys are outside. These boys are Jehovah Witnesses and strictly 1-A."

THE COURT: You object to that?

MR. PARSONS: I object to that testimony as being immaterial before any issue before the Court.

THE COURT: All right, proceed.

By MR. MILGROM:

Q Now, Mr. Sicurella, at this hearing which was held

before your Local Board on July 14, 1952, shortly after 8:00 p.m., who was then present?

BY THE WITNESS:

A There was myself, my two brothers, and three of the Board Members.

Q By your two brothers, you mean whom?

A Joseph Sicurella and Pat Sicurella.

Q Will you tell the Court what was said at this hearing?

A I said to Mr. De Leonardis, or explained to him I was a minister of the religion and then I related

[Tr. 52]

the time I spent in the service, the nature of my work was preaching from door to door and from the pulpit to a congregation of Jehovah Witnesses in Kingdom Hall, I preached on street corners, and contacted all persons having an interest in the admonition that God gives us.

He said to me—Mr. De Leonardis said to me that he believed me to be a true minister of religion because he has known me and my family since we kids were children, because we live in the same neighborhood; that he knew my father and he knew my mother.

He said that he would give me a 4-D classification if he could because he knew the entire family and he said, "I know you are entitled to it, according to the law, but the case is over my head."

When he said this he looked at the other two Board Members and they agreed and shook their heads in agreement.

Then I said to Mr. De Leonardis, "Then will you please pull out my CO Form? I would like to prove a little more to you of my standing."

Mr. De Leonardis said that it is no use

[Tr. 53]

to go into detail because the matter is over his head.

Q What, if anything else, was said that you can remember?

A Then, he started to talk to one of my brothers, that is, Mr. De Leonardis did.

MR. PARSONS: If the Court please, for the matter of the record, I know it is too late to offer an objection because I should have objected to this testimony before the answer was given, but for the record, I object for the same reasons that I objected before as to the testimony concerning what was said outside of the hearing room on the grounds that there has been an appeal from the actions of the Local Board.

Under the ruling in the Fletcher case and the Estep case, unless there is a record of something that happened before the Local Board it would affect the Appeal Board's decision. We feel this is immaterial to any issues before the Court.

THE COURT: Well, you have been all through this already.

MR. PARSONS: Yes, sir.

[Tr. 54]

THE COURT: Your objection comes too late as far as this is concerned.

BY MR. MILGROM:

Q Did you take an appeal from your 1-A classification which you received on July 16, 1952?

BY THE WITNESS:

A Yes, sir, I did.

Q And you took that within ten days of the time from the time of that classification?

A Yes.

Q On July 14, 1952?

A Yes.

Q What classification did you receive?

A 1-A.

Q Did you have a conscientious objector's hearing before Mr. Roy West?

A Yes, I did.

Q Where did that hearing take place?

A It took place on January 13, 1953.

Q At approximately what time?

A At 10:30 in the morning.

Q In the morning?

A Yes, sir.

Q Where did the hearing take place?

[Tr. 55]

A It took place in the library room of the Old Post Office Building.

Q You mean, this building here?

A Yes.

Q That was on the fourth floor?

A Yes, sir.

Q Aside from yourself and Mr. West who else was present at this hearing?

A I brought along with me some twelve witnesses from the congregation of Jehovah Witnesses from Kingdom Hall to testify as to my ministry.

Q Just a second. Just answer the question.

A Yes, sir.

Q And those people appeared before the hearing officers?

A Yes, they did.

Q Now, will you please tell the court what was said at that conscientious objector's hearing?

A The session opened up with Mr. Roy West telling me I had been investigated by the F.B.I. So, I asked Mr. Roy West if I could please see the file and the F.B.I. report.

Q Was the report in the file?

A The F.B.I.'s report was there. I asked for it.

[Tr. 56]

He said to me that there was no use because the F.B.I.'s report was favorable to you.

So, then I asked Mr. Roy West if he would please tell me what was in it. He said, "There is no use in telling you because it was favorable."

Q Then what, if anything, was said?

A Then Mr. Roy West asked me if I prayed daily before meals, and said my prayers at night before going to bed? I said, "Yes."

Then he asked me if I smoked, drank, or ran around?

I told him I did none of those things. Then he questioned one of the witnesses that I brought. He questioned one of them at a time; referred to them as taxpayers and should be heard.

All of the witnesses all affirmed my sincerity in my ministry, and some of the witnesses affirmed my sincerity since my childhood because they had known me ever since I was, —well, about five or six years old.

Q What else, if anything, was said?

A Then Mr. Roy West said to me, "I believe you to be a conscientious objector and I am going to

[Tr. 57]

recommend 1-O for you."

Then I thanked him and afterwards left.

Q Why did you refuse to submit to induction on March 5, 1953?

A Because I thought I was not properly classified and that would not give me the opportunity to carry out my vow to teach, as dictated to me by the Almighty God.

That is, in that I couldn't preach from door to door. Or follow the admonition of Jesus as stated in John 18:36:

"My Kingdom is not of this world. If my Kingdom were part of this world then would my servants fight."

In Acts 5:29 it says:

"We must obey God, rather than men."

Not only today am I already in the Army of Christ serving as a *solider* of His, but if I should desert His forces and join another force, it would mean I would be a deserter and then I would be meted out punishment, death. Therefore, it is better to obey God rather than man.

[Tr. 58]

Q Now, how long have you had these views as you described them?

A Ever since I can remember.

Q How did you acquire such views?

A Through training of Bible education, starting with my folks and then attending regularly Bible Schools.

Q And you have attended such Bible schools for how long? Since when?

A Since about 1940.

Q How much time have you spent on an average per month from the start up to the present day in preaching?

A I would say on an average of forty hours or more a month.

Q What is the nature of your preaching?

A It is preaching from house to house, on the street corners, and from the pulpit to a congregation of Jehovah Witnesses in Kingdom Hall.

MR. MILGROM: Your witness.

CROSS-EXAMINATION

BY MR. PARSONS:

Q Mr. Sicurella, I am going to show you Government's Exhibit 2, which is in evidence and which includes

[Tr. 59]

a number of parts, marked 2-E through 2-AU, and ask you some questions about these exhibits.

A Yes, sir?

Q I show you Government's Exhibit 2-E, which is the Selective Service system classification questionnaire, and on the seventh page of this exhibit is the signature of "Anthony T. Sicurella".

That is your signature?

A Yes.

Q You filled out this questionnaire, did you not?

A Yes, I did.

Then you were the person who placed on this questionnaire opposite the questions, that is, as to whether or not you are a minister, the statement, "I am a minister of the religion," is that correct?

A Yes, I did.

Q And you answered:

"I do regularly *service* as a minister."

A That is correct, sir.

Q And that is your signature, and your handwriting filled in the answer to the question:

"I have been a minister of Jehovah's Witnesses since 1934."?

A That is right.

[Tr. 60]

Q And you said:

"I have been formally ordained."

Is that right?

A That is right.

Q You also filled in Series 2 of that questionnaire, didn't you?

A Yes, sir.

Q Which states:

"I am a student preparing for the ministry—"

Is that right?

A Yes, I did.

Q That is correct?

A Yes.

Q And you said:

"I am attending the Kingdom Hall located at 2357 S. Lawndale."?

A That is right.

Q You filled that in, did you not?

A That is right.

Q And you said:

"I am a student preparing for the ministry under the direction of Watch Tower Bible & Tract Society—"

You filled that in, did you not?

[Tr. 61]

A Yes, sir, I did.

Q Mr. Sicurella, you also filled in, did you not, the part of this questionnaire that is marked Series VIII, and under Figure 2 where you said:

"The job I am now working at is clerk—"

Is that right?

A That is right.

Q And following that under Figure 3 you said:

"I do the following kind of work in my present job, file clerk."

Did you put that in?

A That is right, yes, I did.

Q And you said:

"4(a) I worked 5 years in my present trade—"

Is that right?

A Yes, that is right.

Q And you said further:

"—and I do expect to continue indefinitely in it."

That is your statement?

A That is right.

Q And you said:

"My employer is Railway Express Agency, 817 S. Wells."

[Tr. 62]

Is that right?

A That is right, sir.

Q And you said:

"Whose business is expressing,"

Is that right?

A That is right, sir.

Q And you said:

"I work an average of 44 hours per week."

Is that right?

A That is right, sir.

Q Mr. Sicurella, at the time you filled in that questionnaire had you ever read the rules and regulations of the Selective Service Act relating to the ministry or stu-

dents of the ministry?

A I might have, yes.

Q Do you recall the rules and regulations which define or constitute the ministry?

A I don't think I have, no.

Q Had anyone told you about the regulation which provides that in Class 4-D shall be placed any registrant:

"Who is a student preparing for the ministry under the direction of a recognized church or religious

[Tr. 63]

organization and who is satisfactorily pursuing a full-time course of instruction leading to entrance into a recognized theological or divinity school in which he has been pre-enrolled."

Or:

"When used in this title, the term 'duly ordained minister of religion' means a person who has been ordained, in accordance with the ceremonial, ritual, or discipline of a church, religious sect, or organization established on the basis of a community of faith and belief, doctrines and practices of a religious character, to preach and to teach the doctrines of such church, sect, or organization and to administer the rites and the ceremonies thereof in public worship, and who as his regular and customary vocation preaches and teaches the principles of religion and administers the ordinances of public worship—"

Now, do you remember having been told that a minister under the Selective Service Act must regularly and as a custom of his vocation preach?

[Tr. 64]

A Have I been told that?

Q Yes? Were you not told that at the time you filled in this questionnaire?

A Not at the time I filled out the questionnaire, no.

Q Do you know or have you been told since then that to be classified as a minister under the Selective Service Act you must be a full-time minister?

MR. MILGROM: That is objected to. It calls for a conclusion.

THE COURT: Objection sustained.

BY MR. PARSONS:

Q You stated, did you not, you filled in Form 150 of the Selective Service? You stated in your direct examination you did that, did you not?

BY THE WITNESS:

A That I filled in 150? Is that the question?

Q Yes?

A Yes, I filled that in.

Q Is this your signature here on page 1 of that Form?

A Yes, it is.

Q And on the supplement which is added to the Form?

A That is right, sir.

[Tr. 65]

Q (Continuing) At the end of the Form there?

A That is right, sir.

Q And it was you who typed on to this Form, was it not, the answer to the question No. 5 which says:

"Under what circumstances, if any, do you believe in the use of force?"

A Yes.

Q It was you who answered this:

"Only in the interests of defending Kingdom Interests, our preaching work, our meeting's, our fellow *brethern* and sisters and our property against attack."

A Yes, I did.

Q It was you who added the supplement to this, is that correct?

A Yes, I did.

Q Mr. Sicurella, you were classified 4-D on March 1, 1949, isn't that right?

A Yes, sir.

Q And you were classified 1-A on October 9, 1950. Do you recall that?

A I think I do, yes.

Q And you requested a hearing from your Local Board as to that classification, did you not?

[Tr. 66]

A Yes, I did.

Q You were granted that hearing?

A Yes, I was.

Q After this hearing, you were kept in 1-A classification, were you not, or were you reclassified?

A I don't understand the question?

Q I will rephrase the question:

Following that hearing, you were reclassified 1-A, were you not?

A After the hearing, yes.

Q At that time, you appealed from that Local Board's classification, did you not?

A Yes, I did.

Q Your appeal was you should have been classified as a minister?

A That is right.

Q And as far as you know the Appeal Board made a determination itself, did it not?

MR. MILGROM: That is objected to, as far as he knows.

THE COURT: Objection sustained.

BY MR. PARSONS:

Q Do you know what action, if any, was taken by the Appeal Board?

[Tr. 67]

A I remember getting another 1-A.

Q Do you remember from whom you received that classification?

A No, I don't.

Q Would you recall receiving it if you should see a copy of the notice of that classification?

A I would recognize it, yes.

Q I will show you Government's Exhibit 2-R. Do

you recall receiving a copy of that document?

A Yes, I think I do.

Q And the classification is 1-A at the bottom, is that correct?

A Yes.

Q Under the title, "Minutes of Action by Appeal Board."

MR. MILGROM: I may be mistaken but that Exhibit Mr. Parsons just referred to, I think, is one which the registrant never gets a copy of. That is the individual appeal record. That is before the local Board.

THE COURT: Well, is there any dispute about that, as to what the result of it was?

MR. MILGROM: He was notified as to the

[Tr. 68]

ruling. There is no dispute about that.

BY MR. PARSONS:

Q Then you filled in Form 150 (Government's Exhibit 2-W), is that correct?

A Yes, I did.

MR. MILGROM: May I see that Form, the one you just referred to? The one you referred to before, I mean?

MR. PARSONS: Yes, sir.

(Whereupon Mr. Parsons handed Mr. Milgrom a document.)

MR. MILGROM: Thank you. Go ahead.

BY MR. PARSONS:

Q After you filled in 150 Form (Government's Exhibit 2-W), do you recall whether or not your Local Board classified you again?

BY THE WITNESS:

A I think I got another 1-A, yes.

Q Did you appeal from that classification?

A Yes, I did.

MR. MILGROM: Just to keep the records straight, I think this exhibit shows that after he filed his 150 Form his next classification which he received as 4-D on

[Tr. 69]

March 12, 1951, from his Local Board.

MR. PARSONS: Thank you.

BY MR. PARSONS:

Q The classification notice which you received was the 1-A classification, isn't that correct?

BY THE WITNESS:

A Yes, sir, it was.

Q Did you ask for an appearance before the Local Board following that classification?

A Yes, I did.

Q Were you granted that appearance?

A I was, yes.

Q Following that appearance, were you classified again?

MR. MILGROM: You might possibly refer to dates, Mr. Parsons? There are quite a few here?

BY MR. PARSONS:

Q Did you receive a I-A classification on April 7, 1952? Do you recall receiving one then?

BY THE WITNESS:

A When?

Q In 1952?

A No, I don't recall a 1-A then.

[Tr. 70]

Q Following your appearance before the Local Board, the last time, did you receive a notice of classification?

MR. MILGROM: That is referred to as July 14,

1952, Mr. Parsons.

MR. PARSONS: Yes?

THE WITNESS: Will you state your question again?

BY MR. PARSONS:

Q Following your appearance the last time before the Local Board did you receive then a notice of classification?

BY THE WITNESS:

A Yes, I did.

Q Do you recall that classification?

A The last classification was a 1-A.

Q Did you appeal from that classification?

A Yes, I did.

Q You testified you appeared before Roy West?

A That is right.

Q He is the hearing officer of the Department of Justice, isn't that correct?

A That is right, sir.

Q Who handles hearings for recommendations of

[Tr. 71]

appeal of conscientious objectors, isn't that right?

A Yes, sir.

Q Following that appeal you received another classification, did you not?

A I did, yes.

Q What was that classification?

A 1-A.

Q 1-A?

A Yes, sir.

Q Following that final 1-A classification, you were ordered to report for induction, weren't you?

A Yes, I was.

Q You reported?

A Yes, I did.

Q You took an examination?

A Yes, I did, sir.

Q You were given an opportunity to go into the service?

A Yes, I was.

Q Did you go in?

A No, I didn't.

Q After the first opportunity, you were given a second opportunity in a smaller room?

A Yes, I was.

[Tr. 72]

Q Before that second opportunity was given to you the officer there read certain regulations to you, didn't he?

A He did, yes.

Q And then he gave you another opportunity to submit? Didn't he?

A That is right, sir.

Q And you didn't go in?

A No, sir.

Q Let me show you Government's Exhibit 2—a part of that exhibit which is marked 2-X which is in evidence. I will ask you to look at it?

A Yes, sir.

Q You have looked, Mr. Sicurella, in this file? This is the file, is it not?

A It is, yes, sir.

Q Have you ever had an opportunity to look at it before now?

A I went through it, yes, once.

Q Have you ever asked the Board to let you look at it and then been refused that privilege?

A No, I haven't been refused the privilege. I have seen it.

Q Do you recognize this (indicating) letter as

[Tr. 73]

having been a part of the file? This letter, Mr. Sicurella, from Mr. Paul G. Armstrong? This is the letter addressed to Local Board 14 of the Selective Service System which

says:

"Will you please forward the cover sheet of the captioned registrant to his office for review by the State Director."

THE COURT: Can you answer the question?

THE WITNESS: What was the question?

BY MR. PARSONS:

Q Do you recognize that letter? Have you seen that?

BY THE WITNESS:

A No, I don't recognize it.

Q Let me show you this Exhibit 2-Z which is a letter from Paul Armstrong to Local Board #14 which states:

"Gentlemen:

Thank you for forwarding the cover sheet of the captioned registrant to this office for review.

We are returning herewith the cover sheet with the request that this registrant be considered for a classification of 4-D inasmuch as there is evidence in the cover sheet that the registrant is a minister of

[Tr. 74]

religion. There is also in the cover sheet a Form 150 Special Form for Conscientious Objector.

In the event the local board, after reconsideration of the case, retains the registrant *is* class 1-A, it should be forwarded to the Appeal Board for action in accordance with the regulations."

You remember reading that in the file?

A Yes, I do.

Q Do you recall writing to the local board on February 1, 1950?

THE COURT: What is the date of that last letter you read?

BY MR. PARSONS:

Q Will you look at that exhibit again? What is the date on which the letter was received by the Board?

BY THE WITNESS:

A February 23, 1951.

Q Do you recall writing the Local Board on February 1, 1951, this letter? I show you Government's Exhibit 2-V and ask you if you recall writing that letter?

A I recognize the letter, yes.

Q Do you remember placing in that letter this

[Tr. 75]

statement:

"Since you the Local Board and the Appeal Board both have abused your discretion in improperly classifying me as 1-A instead of 4-D, an ordained minister, I am herewith informing you that I am also appealing my case to the President of the United States and also the Director of the Selective Service System, General Lewis B. Hershey. I will notify you of the results."

Did you write to General Hershey?

A Yes, I did.

Q Now, Mr. Sicurella, when you appeared before your local board you stated you brought with you your two brothers, is that correct?

A That is right.

Q And they went into the local board with you?

A That is right.

Q And into the hearing room with you?

A Yes, sir.

Q When you appeared before Colonel West you stated you brought twelve witnesses with you, did you not?

A Yes, I did.

Q Colonel West didn't keep any of them out, did he?

[Tr. 76]

A No, he didn't.

Q He didn't stop any of them from talking if they wanted to?

A No, sir, he didn't.

Q At the time you appeared before your local board, you had sent to the local board, did you not, certain letters and statements bearing upon your claim for exemption, isn't that true?

A That is right, sir.

Q You had sent in an affidavit by one Theodore A. Savoas?

MR. MILGROM: That is referring to what exhibit?

MR. PARSONS: 2-F.

BY THE WITNESS:

A Yes.

BY MR. PARSONS:

Q Let me show you Exhibit 2-H. You sent in that letter to the local board, did you not?

A Yes, I did.

Q Concerning your *ministerial* duties?

A Yes, I did.

Q On November 5—this is Exhibit 2-J. Let me show you this—

[Tr. 77]

MR. MILGROM: Of what year?

BY MR. PARSONS:

Q 1950, which bears the signatures of some eighteen persons testifying to your preaching. You sent that to your local board, did you not?

BY THE WITNESS:

A Yes, I did.

Q I show you this Exhibit 2-K signed by George H. Lenz. You sent that to your local board?

A Yes, I did, sir.

Q Those were in your file when you looked in the file, were they not?

A Yes, sir, they were.

Q Did you notice whether they were in the file when you appeared before your local board?

A At the time I asked for the file I didn't see them but I saw them before.

Q You had seen them in the file before?

A Yes, I did.

Q They were before the Board at the time you appeared before the Board?

A That is right, sir, yes, sir.

Q And they were in the file when you appeared before Col. West, were they not?

[Tr. 78]

A Col. West didn't have the file before him.

Q But you had seen them in the file before you appeared before Col. West?

A I did, yes.

Q Let me go back to this Form 150 which is marked 2-W. Will you look that over, please?

(Whereupon counsel handed the witness a document.)

A Yes, sir.

Q You recognize that Form again, don't you?

A Yes, I do.

Q It was you who stated on this Form, was it not, the following:

"I am already in the Army of Christ Jesus serving as soldier of Jehovah's appointed Commander Jesus Christ."

And then you quoted a scripture as follows:

"(2 Tim: 2: 3 & 4). Inasmuch as the war weapons of the soldier of Jesus Christ are not carnal, I am not authorized by his commander to engage in carnal warfare of this world."

You filled in that and sent it to the local board, didn't you?

[Tr. 79]

A Yes.

Q And at the time you appeared before Col. West you had sent this into your local board?

A I assume it was, yes.

Q Do you recognize the date on it?

A February 9, —

Q Did you send it in on this date?

A I sent it in on the 5th.

Q The 5th of what year?

A The 5th of February.

Q 19— of what year?

A I guess that is right, 1951.

Q When was the hearing before Col. West?

A January 13th of this year, 1953.

Q Do you recall the date of your hearing before the local Board when you submitted this 150 Form?

A Will you repeat that?

Q Do you recall approximately when the hearing was before the local Board? Was it following your submission of this 150 Form?

A You mean, as to this Form here?

Q Yes?

A I believe it was a year after that.

Q It was a year after this Form was sent in?

[Tr. 80]

A Yes, it was.

MR. PARSONS: That is all.

REDIRECT EXAMINATION

BY MR. MILGROM:

Q Mr. Sicurella, calling your attention to the Selective Service Form 100, which is in evidence as Government's Exhibit 2-E, Series VI, wherein you state:

"I am a minister of religion.

I do regularly serve as a minister.

I have been a minister of Jehovah's Witnesses since 1934."

And you say:

"I am a student preparing for the ministry under the direction of Watch Tower Bible & Tract Society in a theological or divinity school."

Then you have this statement:

"I am a student preparing for the ministry under the direction of Watch Tower Bible & Tract Society, pursuing a full time course of instruction leading to my entrance into—"

And then you say:

"None yet."

[Tr. 81]

Now, what do you mean by those statements that you made in 2 and 3 under Series VI, which I just referred to? Why did you put those statements in there?

A Why did I say I was a minister and a student both?

Q Right?

A Well, just because one becomes a fulltime minister does not mean he is not a student, but after one does graduate he still continues to be a student so as to become more acquainted with the subject of ministry work. So, therefore, I still consider myself a student, plus being a minister today.

Q And you did at the time you filled out this questionnaire?

A Yes, I did.

MR. MILGROM: That is all.

RECROSS-EXAMINATION

BY MR. PARSONS:

Q Did I understand you to say, Mr. Sicurella, you consider yourself to be a student today of the ministry?

BY THE WITNESS:

A Yes, sir.

Q As well as a minister?

[Tr. 82]

A That is right.

Q When did you start being a student of the ministry?

A About 1940.

Q So, you continued as a student from 1940 until now and that would be some thirteen years, is that right?

A That is right, sir.

Q How long will you continue to be a student of the ministry?

A I will continue as long as I am a minister; a student and a minister, because I know myself even though I am a minister I will never know everything there is to know about the ministry.

MR. PARSONS: That is all.

MR. MILGROM: Nothing further.

THE COURT: I understand he was ordained in 1934 as a minister, is that right?

MR. PARSONS: As a minister.

BY THE WITNESS:

A No, sir, it was 1940. I have been brought in it since 1934.

THE COURT: You have been a student since 1934. When were you ordained as a minister?

THE WITNESS: About 1940.

[Tr. 83]

THE COURT: All right.

MR. PARSONS: That is all.

THE COURT: Is that all?

MR. PARSONS: Well, may I ask one additional question in line of the Court's question?

THE COURT: Yes.

BY MR. PARSONS:

Q You had filled in the statement here where it says, "I have been a minister of Jehovah's Witnesses since 1934," isn't that correct?

BY THE WITNESS:

A That is right.

THE COURT: That is what I understood you to say.

THE WITNESS: Yes.

MR. PARSONS: That is all.

MR. MILGROM: Just one more question.

REDIRECT EXAMINATION

BY MR. MILGROM:

Q By that do you mean you have been preaching since 1934?

BY THE WITNESS:

A Yes, that is right.

Q But you were formally ordained at a later date?

[Tr. 84]

A That is right.

THE COURT: "Formally ordained" when?

MR. MILGROM: At a later date.

THE COURT: What do you mean by that?

MR. MILGROM: In 1940.

THE COURT: All right.

MR. MILGROM: That is all.

THE COURT: Call your next witness.

(Witness excused)

[Tr. 85]

MR. MILGROM: We will call Pat Sicurella.

PAT SICURELLA,

called as a witness on behalf of the defendant, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MILGROM:

Q Will you state your name?

BY THE WITNESS:

A Pat Sicurella.

Q Your address?

A 2642 North McVickers.

Q Chicago, Illinois?

A Chicago, Illinois.

Q You are a brother of the defendant Anthony Tony Sicurella?

A I am.

Q Now, calling your attention to July 14, 1952, at approximately eight p.m., did you have an occasion to accompany him to his local draft board No. 14 at 226 West Jackson Blvd., Chicago, Illinois?

A I did.

Q Who was with you aside from the defendant and

[Tr. 86]
yourself?

A My other brother, Joseph Sicurella.

Q Tell the Court what, if anything, you heard said before the hearing?

MR. PARSONS: I object, your Honor.

THE COURT: That is the same testimony as before?

MR. MILGROM: Yes, sir.

THE COURT: You make an objection?

MR. PARSONS: Yes, sir.

THE COURT: And you make the same offer again?

MR. MILGROM: I offer to prove by this witness

that while he and the defendant and his other brother were sitting in the room outside of the hearing room of Local Board 14, at 226 West Jackson Blvd., prior to the hearing of his brother, the defendant, scheduled at 8:00 p.m., on July 14, 1952, that this witness heard Mr. De Leonardis, a member of Local Board 14 say, "The Sicurella boys are outside. These boys are Jehovah Witnesses and strictly 1-A."

This witness would also testify if

[Tr. 87]

allowed to that he had known Mr. De Leonardis since his childhood and was familiar with his voice.

That is my offer.

THE COURT: You renew your objection?

MR. PARSONS: I make the same objection.

THE COURT: The same ruling.

Q Mr. Witness, you attended the hearing that your brother, the defendant, had on July 14, 1952, shortly after 8:00 p.m.?

BY THE WITNESS:

A I did.

Q That was before Local Board 14 at 226 West Jackson Blvd., Chicago, Illinois?

A Correct.

Q Will you tell the Court what was said at this hearing?

A Well, my brother presented his argument that he was granted 4-D rightfully and that it was taken away from him and no reason given for it.

He went into detail on form 150 but Mr. De Leonardis said there was not any use in going into detail about it because the case is over his

[Tr. 88]

head and he couldn't do anything about it.

He also stated he was personally acquainted with us boys and the family since we were children and if it was up to him he would grant us 4-D because we were rightfully entitled to it by law. And he looked to the Board members who shook their heads in agreement.

MR. PARSONS: Acknowledging, your Honor, the tardiness of my objection, I ask leave for the purpose of the record that it show that the Government does even at this time object on the ground it is immaterial to any issues properly before the Court, since the registrant filed an appeal and was granted an appeal.

THE COURT: Well, the testimony is all in now.

MR. MILGROM: That is all.

MR. PARSONS: No cross-examination.

THE COURT: Call your next witness.

(Witness excused)

MR. MILGROM: Could we have a short recess, your Honor?

THE COURT: Yes, we will take a recess.

(Recess taken.)

THE COURT: All right, you may proceed.

[Tr. 89]

MR. MILGROM: We will call Joseph Sicurella.

JOSEPH SICURELLA,

called as a witness on behalf of the Defendant, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MILGROM:

Q Will you state your name?

BY THE WITNESS:

A Joseph Sicurella.

Q What is your address?

A 2642 North McVickers Avenue, Chicago, Illinois.

Q You are a brother of the defendant Anthony Tony Sicurella?

A That is right.

Q Did you attend a hearing with your brother, the defendant, and your other brother, Pat Sicurella, which was held before Local Board 14 at 226 West Jackson, Chicago, Illinois, on July 14, 1952, set for 8:00 p.m.?

A I did.

Q Were you present with the defendant and Pat Sicurella, immediately outside of the hearing room,

[Tr. 90]

before the hearing was then granted the defendant?

A I was.

Q Will you tell what, if anything, you heard while you and your two brothers, the defendant and Pat Sicurella, were waiting for the hearing of your brother before Local Board 14 at that time.

MR. PARSONS: I object to that, your Honor, on the grounds it is immaterial.

THE COURT: The same situation as encountered before?

MR. MILGROM: That is right.

THE COURT: The objection is sustained. You may make your offer of proof.

MR. MILGROM: I offer to prove by this witness here that on July 14, 1952, at about 8:00 p.m., while this witness, the defendant and this witness' brother, Pat Sicurella, were sitting outside of the hearing room of Local Board 14, at the hearing pertaining to the defendant, this witness heard Mr. De Leonardis, member of the Local Board state, "The Sicurella boys are outside. They are Jehovah Witnesses and strictly 1-A."

I also offer to prove by this witness

[Tr. 91]

that at that time he knew the voice of De Leonardis, he having lived in the same neighborhood previous.

MR. PARSONS: We make the same objection.

THE COURT: The objection will be sustained.

BY MR. MILGROM:

Q Now, did you attend the hearing that your brother had before Local Board 14 on July 14th at about 8:00 p.m.?

BY THE WITNESS:

A I did.

Q Who else was present at that hearing?

A There was Anthony and Pat, and also Mr. De Leonardis and two other Board members.

Q To the best of your recollection, tell the court what was said at that hearing?

A At the hearing during the course of the conversation, Mr. De Leonardis had said that if it was in his power or within his hands he would have given my brother the 4-D classification, but because it was above his head, why, there isn't anything I can do about it.

Q What, if anything, do you recall that was said at the hearing?

[Tr. 92]

A Well, continuing on, Anthony had asked to see the file and Mr. De Leonardis had made the statement to the effect, "There is not any use in going over there because it is more or less an open and shut case."

Q Do you recall anything else that was said at the time?

A No, offhand, I can't say I do. Although it turned out to be more or less a general hearing.

Q Well, you don't recall anything else that was said?

A No.

MR. PARSONS: May it please the court, the

government at this time acknowledges it is too late for it to object to the questions and answers immediately preceding hereto but for the purpose of the record ask leave to acknowledge that it should have objected on the grounds the testimony was immaterial to any of the issues.

THE COURT: Let the record so show that.

MR. MILGROM: That is all.

MR. PARSONS: No questions.

THE COURT: That is all, Mr. Witness.

* * *

* * *

GOVERNMENT'S EXHIBIT 2

(Filed November 4, 1953)

[Immaterial portions of all printed, mimeographed, etc. form documents in this exhibit are omitted in printing. Handwritten or typewritten material is distinguished from printed-form wording by *italics*.]

SELECTIVE SERVICE SYSTEM COVER SHEET

Name (Last) *Sicurella* (First) *Anthony* (Middle) *Tony*
Address *1105 S. Hermitage Ave.*
(City or town) *Chicago*, . . . (State) *Ill.* . . . Race *White*
Selective Service Number *11 14 27 188*
Date of Birth (Month) *6* (Day) *13* (Year) *1927*
Local Board #14
Chicago Area Office #1
(9) *11 48*
(Stamp of Local Board)

Local Board No. 14
Selective Service System
AUG 14 1952
226 West Jackson Blvd.,
Chicago 6, Illinois

Date of registration 9-11-48
Date of mailing Questionnaire 1-6-49

Changes of Address:

1. (Number and street . . .) 2642 N. McVickers Ave.
(Date) 1-15-49 (City, town, or village) Chicago (Zone) 39
(State) Ill

. . .

1621
6952
8336

Classification

Date	Class	Date of Expiration
3-7-49	4-D	
10-9-50	1-A	
11-8-50	1-A	
1-27-51	1-A	
3-12-51	4-D	
3-17-52	1-A	
7-14-52	1-A	ACC

. . .

SSS Form No. 101

GOVERNMENT'S EXHIBIT 2 A

SELECTIVE SERVICE SYSTEM
REGISTRATION CARD

SSS Form No. 1

. . .

Selective Service Number 11 14 27 188 . . .

1. Name (Last) *Sicurella* (First) *Anthony* (Middle)
Tony
2. Place of residence *1105 S. Hermitage Ave.* (City,
town, village, or county) *Chicago* (State) *Illinois*
* * *
5. Date of birth (Month) *June* (Day) *13* (Year) *1927*
6. Place of birth (City, town, village, or county) *Bos-*
ton (State or country) *Mass.*
7. Occupation *Full Time Student*
8. Firm or individual by whom employed *None*
* * *
13. Marital status: *Single X*

[Page 2]

I affirm that I have verified the foregoing answers and
that they are true:

(Signature of registrant) *Anthony Tony Sicurella*
* * *

(Date of registration) *Sept. 11, 1948*

(Signature of registrar) *Verne G. Carey*

Registrar for local board (Number) *Area 1* (City or Coun-
ty) *Chgo* (State) *Ill*
* * *

GOVERNMENT'S EXHIBIT 2 D

**SELECTIVE SERVICE SYSTEM
DELINQUENT REGISTRANT REPORT**

AUG 10 1953
(Local Board Stamp)
* * *

August 10 1953 (Date)

To: Hon. Otto Kerner Jr., United States Attorney.

• • •

1. Identification of Delinquent:

Full name of delinquent: (Last) *Sicurella* (First) *Anthony* (Middle) *Tony*

• • •

Selective Service No.: 11 14 27 188

• • •

2. Offenses:

This delinquent failed to report for induction into the Armed Forces pursuant to . . . X Order to Report for Induction (SSS Form No. 252). . . .

The order indicated was mailed on (Date of mailing) *February 19 1953* to this delinquent at (Address) *1105 So. Hermitage Ave., Chicago, Ill.* to report on (Date) *March 5, 1953*

• • •

SSS Form No. 301

[Page 2]

• • •

5. Remarks: . . . *Registrant reported for induction on March 5, 1953; but refused to be inducted.*

• • •

GOVERNMENT'S EXHIBIT 2 E

**SELECTIVE SERVICE SYSTEM
CLASSIFICATION QUESTIONNAIRE**

Selective Service No. 11 14 27 188

Date of Mailing *January 5th, 1949*

Name: (Last) *Sicurella* (First) *Anthony* (Middle) *Tony*

JAN 5 1949

(Stamp of Local Board)

This questionnaire must be returned on or before
January 15th, 1949

H. J. Bittle

Clerk or Member of Local Board.

SSS Form No. 100

[Page 2]

Statements of the Registrant
Series I.—Identification

5. My Social Security number is (If none, write
"None") 351-14-2585

Series II.—Present Members of Armed Forces

[Page 3]

Series III.—Prior Military Service

Series IV.—Officials Deferred by Law

Series V.—Sole Surviving Son

Series VI.—Minister, or Student Preparing for the Ministry

1. (a) I (am, am not) *am* a minister of religion. (b) I
(do, do not) *do* regularly serve as a minister. (c) I have
been a minister of the (Name of sect or denomination)

Jehovah's Witnesses since . . . 1934 (d) I (have, have not) *have* been formally ordained. (e) If so, my ordination was performed on (Month) *Jan* . . . (Year) 1944 by (Ecclesiastical official performing the ordination) *Mr. Seeley* at (City and State) *Chicago, Illinois*.

2. (a) I (am, am not) *am* a student preparing for the ministry under the direction of (Name of church or religious organization) *Watchtower Bible & Tract Society* in a theological or divinity school. (b) I am attending the (Name of theological or divinity school) *Kingdom Hall* located at *2357 S. Lawndale*

3. I (am, am not) *am* a student preparing for the ministry under the direction of (Name of church or religious organization) *Watchtower Bible & Tract Society*, pursuing a full time course of instruction leading to my entrance into (Name of theological or divinity school) *None Yet* . . .

[Page 4]

Series VII.—Family Status and Dependents

* * *

1. (a) I have never been married X . . .

* * *

3. I have (Number) *4* persons other than those shown above wholly or partially dependent upon me for support.

* * *

Series VIII.—Present Occupation

1. . . . (b) I am now working in a nonagricultural occupation. X

* * *

2. The job I am now working at is . . . *clerk*

3. I do the following kind of work in my present job . . . *file clerk*

4. In my present job, I am (a) a regular or permanent employee, working for . . . other compensation X; I have worked 5 years in my present trade, and I (do, do not) *do* expect to continue indefinitely in it.

* * *

5. My employer is (Name of organization or proprietor, not foreman or supervisor; write "Self" if self-employed) *Railway Express Agency . . . 817 S. Well . . .* whose business is . . . *expressing*

6. (a) I was employed by present employer on (Date) *Jan. 14, 1944*

(b) I entered job described in Statements 2 and 3, this series, on (Date) *June 5, 1948*

[Page 5]

(c) I am paid at the rate of \$*229.07* per . . . month *X*.

(d) I work an average of *44* hours per week.

. . .

Series IX.—Agricultural Occupation

. . .

[Page 6]

Series X.—Education

1. I have completed (Number) *8* years of elementary school, (Number) *2* years of junior high school, and (Number) *2* years of high school.

2. I (was, was not) *was* graduated from high school.

. . .

Series XI.—Students

. . .

[Page 7]

Series XIV.—Conscientious Objection to War

[Blank not signed.]

. . .

Series XV.—Physical Condition

. . .

1. Do you have any physical or mental condition which, in your opinion, will disqualify you from service in the Armed Forces? Yes *X* . . .

2. If the answer to Question 1 is "Yes," state the con-

dition from which you are suffering *nervousness chronic appendicitis & defective hearing*

* * *

Registrant's Statement Regarding Classification

* * *

In view of the facts set forth in this questionnaire it is my opinion that my classification should be Class 4-D.

* * *

Registrant's Certificate

* * *

I, *Anthony T. Sicurella*, certify that I am the registrant named and described in the foregoing statements in this questionnaire; that I have read (or have had read to me) the statements made by and about me, and that each and every such statement is true and complete to the best of my knowledge, information, and belief. The statements made by me in the foregoing (are, are not) [blank] in my own handwriting.

Anthony T. Sicurella
(Signature or mark of registrant)

* * *

[Page 8]

* * *

Dates	Minutes of Actions by Local Board and Appeal Board	Vote	
		Yes	No
<i>MAR 1 - 1949</i>	<i>4 D . . . [3 initials]</i>	<i>3</i>	<i>0</i>
<i>3-8-49</i>	<i>Mailed Form 110 (Notice of Class)</i>		
<i>9-20-50</i>	<i>Mailed Form 390 to appear before board 9-26-50 Write to state for law on the Jehovahs Witnesses before board will act . . . [3 initials]</i>		
<i>OCT 9 1950</i>	<i>1 A . . . [3 initials]</i>	<i>3</i>	<i>0</i>
<i>OCT 10 1950</i>	<i>SSS Form No. 110 Mailed</i>		
<i>10-17-50</i>	<i>Call in for Hearing</i>		
<i>11-3-50</i>	<i>Mailed Form 390 to appear before bd.</i>		

	11-8-50 with evidence		
11-8-50	I A . . . [3 initials]	3	0
11-9-50	Mailed Form 110		
11-15-50	Letter of Appeal Received		
11-21-50	Form 223 Mailed		
11-27-50	Found Acceptable for Military Service		
12-8-50	Form 62 Mailed		
12-8-50	Cover Sheet forwarded to Appeal Board		
1-17-51	Appeal Board classified I-A	4	0
1-22-51	Cover Sheet returned from B/a		
1-22-51	Form #110 mailed		
2-5-51	Requested and secured new Form 150		
2-9-51	Completed Form 150 received		
2-16-51	Complete Cover Sheet forwarded to St. Director for review, per request 2-15-51		
MAR 12 1951	4 D . . . [3 initials]	3	0
MAR 13 1951	SSS Form No. 110 Mailed		
3/10/52	Cover Sheet forwarded to State Head- quarters for review and recommenda- tion. eg		
3-17-52	I A . . . [3 initials]	3	0
MAR 18 1952	SSS Form No. 110 Mailed		
3/24/52	Letter dated 3/20/52 received from reg- istrant requesting personal appearance. eg		

[Page 9]

. . .

April 1, 1952	Letter ordering registrant to appear before board April 7, 1952		
4-7-52	I A . . . [3 initials]		
4/8/52	SSS Form 110 mailed eg		
4/18/52	Letter of appeal received from regis- trant eg		
4/18/52	File forwarded to Appeal Board eg		
5-23-52	Cover sheet returned from Appeal Board registrant was classified 1-A	3	0
5-23-52	Form 110 mailed	dc	

6/16/52 Cover Sheet forwarded to State Headquarters for transmittal to National Headquarters for review. eg

7/8/53 Letter ordering registrant to appear before board July 14, 1952. 8:00 PM

JUL 14 1952 I A . . . [3 initials]

JUL 15 1952 SSS Form No. 110 Mailed

10-22-52 The Appeal Board reviewed the file and determined that the registrant should not be classified in either Class I-A-O or Class I-O or any other lower classification under the circumstances set forth in subparagraphs (1) or (2) of paragraph (a) of Section 1626.25, Selective Service Regulations.

FEB 13 1953 Returned from appeal Board classified

FEB 13 1953 I-A Form 110 mailed. 4 0

FEB 19 1953 SSS Form No. 252 Mailed to Report March 5th, 1953

MAR 10 1953 Registrant reported 3/5/53: but refused to be Inducted: See letter Harold Growen 1st Lt. o/c Ind. Sta. 3/6/53

3-12-53 Cover Sheet & Reg. Card forwarded to St. Hedqtrs. for review ds

* * *

SSS Form No. 100-S

GOVERNMENT'S EXHIBIT 2 F

October 8, 1948

TO WHOM IT MAY CONCERN:

Concerning the ministerial duties of Mr. Anthony Sicurella: He is an ordained minister of the gospel and a representative of a legal religious organization known as the Watchtower Bible and Tract Society.

Mr. Sicurella visits persons in their homes where he brings to them Bible tracts and Bibles and holds personal Bible studies with them.

Also said minister is enrolled in a ministry school at 24th and Lawndale Streets where he attends regularly to further his vocation as a minister of God.

I have personally known Mr. Sicurella and of his ministry for a period of two years.

Signed Theodore A. Savvas
3309 W. Adams Street
Chicago, Illinois

State of Illinois)
County of Cook) ss

Personally appeared before me this 8th day of October 1948.

M. Mildred Beck
Notary Public

My Commission Expires Aug. 3, 1950

[Seal of Notary public]

GOVERNMENT'S EXHIBIT 2 F

Page 2

State of Illinois)
County of Cook) ss

To whom it may concern:

I, Willard Dargatz, being duly sworn and under oath, do hereby testify that I know Anthony Sicurella, *1105 S. Hermitage Ave., Chicago 12, Illinois, to be a *student* minister of the Gospel and that he is associated with the Watch Tower Bible and Tract Society.

He is highly industrious in his study of the Bible and attends all formations of the Company whereby he may improve his ministry and add to his knowledge of the Scriptures. These formations include Ministry school, Service meetings, and Watchtower studies.

I have known Anthony Sicurella for the past year and a half I find him to be very sincere in his capacity as a *student* minister.

Name Willard Dargan
Address 3206 W. Maypole Ave.
Chicago 24, Illinois

• • •

[Sworn before notary public]

*Moved to 2642 N. McVickers.

A. T. S.

• • •

GOVERNMENT'S EXHIBIT 2 H

11-14-27-188

Anthony Tony Sicurella
2642 North McVickers
Chicago 39, Illinois
October 15, 1950

Area 1 Pls note [Penciled note]

Selective Service System

Local Board No. 14

226 West Jackson Blvd.

Chicago 6, Illinois

Gentlemen:

Since I have the right to appeal the change of my Ministers classification of 4-D to 1-A; I hereby request a personal appearance before the board, to further discuss my

proper classification of which is a Minister's classification 4-D.

It is now over a year that I have been in my proper classification 4-D of which is a Ministers proper classification. But through some misunderstanding you now classify me 1-A. For this reason I am now appealing my case. Thus: my request for a personal appearance before the board, to discuss my proper classification of which is 4-D a Minister's classification.

Waiting for your reply as to when to make my personal appearance before the board, I am:

Respectfully Your's

[Signature]

Anthony Tony Sicurella
Ordained Minister

OCT 16 1950

[Local Board Stamp]

GOVERNMENT'S EXHIBIT 2 I

Luke 16:13 Cannot serve God and man
John 18:36 My Kingdom is not of this world
Acts 5:29 One should obey God rather than man
Exo. 23:32 Make no covenant with their gods
Mat. 7:1-2 Who are you to judge
Mark 16:15 Preach in all the world
Mat. 24:14 This gospel shall be preached
Luke 6:31 Do unto others

GOVERNMENT'S EXHIBIT 2 J

Anthony T. Sicurella
 2642 North McVickers
 Chicago 39, Illinois
 Nov. 5, 1950

NOV 8 1950

[Local Board Stamp]

Selective Service System

Local Board No. 14

226 West Jackson Blvd.

Chicago 6, Illinois

Gentlemen:

We the undersigned have known and do recognize Brother Anthony T. Sicurella as a minister of the gospel as of personally preaching and teaching the vital Kingdom Message publicly and from door to door for a good number of years.

Harvey L. Cottom	2355 S. Lawndale Ave. Chgo 23, Ill
William J. Narve	4247 W. 21st Place, Chgo 23, Ill.
Clyde Anderson	Woodale Ill Box 706
Frank Sypien	16427 Lawndale Harvey Ill.
Alonzo E. Torbit	3216 S. 61st Ave. Cicero 50, Ill.
Frank McCluskey	1521 S. Millard St.
Harold McGuire	5355 Leland W. Chicago
Robert O. Stich	6033 Richmond, Clarendon Hills
Elmer H. Nordgren	6128 N. Nagle Ave. Chicago

GOVERNMENT'S EXHIBIT 2 K

Geo. H. Lenz,
5008 Diversey Blvd.
Chicago, Ill.

NOV 8 1950

[Local Board Stamp]

Illinois Draft Board #
Chicago, Ill.

Dear Sirs:

It is my privilege to write to you in regard to the ministerial record of Anthony Sicurella, 2642 No. McVickers, Chicago, Illinois.

Mr. Sicurella was immersed and become a consecrated servant of Jehovah in 1942. He has been a regular student at our ministry school for the past four years.

Mr. Sicurella engages in the door to door ministry bringing the message of the Kingdom to the people, as well as taking part in other phases of the work such as public advertising and he has progressed in his work to the point of instructing others through the medium of hour-long bible discourses at the company assemblies.

Sincerely,
[Signature]
Geo. H. Lenz,

Company Servant of the Northwest Unit
Of Jehovah's Witnesses and
City Servant of All Chicago Companies

Subscribed and sworn to before me this 7th day of November, 1950. Carl F. Froberg, Notary Public

1838 N. Fairfield Ave.
Chicago 47, Ill.

[Seal of Notary Public]

GOVERNMENT'S EXHIBIT 2 L

Anthony Tony Sicurella
 2642 North McVickers
 Chicago 39, Illinois
 November 11, 1950

Selective Service System
 Local Board No. 14
 226 West Jackson Blvd.
 Chicago 6, Illinois

11-14-27-188

Gentlemen

I am *appealling* my change of classification from 4-D to 1-A. And in doing so I wish to make a personal appearance before the whole Board of Appeals, to further give material as well as verbal proof of my Ministerial status as of since 1932.

I also refer you to your very own laws pertaining: Section 5- (d) Selective Training Service Act where General Hershey director of Selective Service very clearly points out a basis for you to place your *judgement* on or toward my proper classification of which is a Ministerial draft status 4-D. As I have had from the start.

Selective Training Service Act - Section 5 (d) : "Regular or duly ordained ministers of religion shall be exempt from training and service".

Hopeing to make a personal appearance before you, very soon I remain :

Respectfully yours,

[Signature]

Anthony T. Sicurella
 Duly Ordained Minister

P. S. for proof of all the above statements: refer to my file.

NOV 15 1950

[Local Board Stamp]

GOVERNMENT'S EXHIBIT 2 M

LOCAL BOARD NO. 14
Selective Service System
NOV 21 1950
226 West Jackson Blvd.
Chicago 6, Illinois
November 21, 1950

Mr. Anthony T. Sicurella
2642 North McVickers Avenue
Chicago 39, Illinois

Dear Mr. Sicurella:

In accordance with your request, an appeal to the Appeal Board will be granted providing you are found acceptable for military service after the pre-induction physical examination.

No personal appearance is granted before the Appeal Board, but your complete file will be forwarded for a decision.

Yours very truly
By Direction of the Board
H. J. Bittle, Clerk

HJB:LHG

GOVERNMENT'S EXHIBIT 2 N

SELECTIVE SERVICE SYSTEM
ORDER TO REPORT FOR ARMED FORCES PHYSICAL EXAMINATION
NOV 21 1950
(Local Board Stamp)

November 21, 1950 (Date of mailing)
To (First name) *Anthony* (Middle name) *Tony* (Last name) *Sicurella* (Selective Service Number) *11 14 27 188*

You are hereby directed to report for armed forces physical examination at (Place of reporting) *Room 316 - 209 West Jackson Boulevard, Chicago, Illinois* at (Hour of reporting) *1: 00 P.m.*, on the (Day) *27th* of (Month) *November, 1950*

H. J. Bittle

(Member or clerk of Local Board)

• • •

SSS Form No. 223

GOVERNMENT'S EXHIBIT 2 O

CERTIFICATE OF ACCEPTABILITY

Last Name - First Name - Middle Name			Present Home Address
<i>Sicurella</i>	<i>Anthony</i>	<i>Tony</i>	<i>2642 N. McVickers Ave. Chicago Ill</i>

Selective Service Number *11 14 27 188*

Local Board Address *226 West Jackson Blvd. Chicago Ill*

I certify that the qualifications of the above named registrant have been considered in accordance with the current regulations governing acceptance of Selective Service registrants and he was this date:

X Found acceptable for induction into the armed services

• • •

Date	Place	Typed or stamped name and grade of joint examining and induction station commander
<i>27 Nov 50</i>	<i>Chicago Ill</i>	<i>Robert Baum Maj 5102 ASU</i>

Signature

Robert Baum

• • •

GOVERNMENT'S EXHIBIT 2 Q

DEC 12 1950

[Local Board Stamp]

Anthony T. Sicurella
 2642 North McVickers
 Chicago 39, Illinois
 December 10, 1950

Selective Service System

Local Board No. 14

226 West Jackson Blvd.

Chicago 6, Illinois

11-14-27-188

Gentlemen:

On December 9, 1950 I received your notification of/or "certificate of acceptability" (DD form No. 62, 1 Oct. '49) stating that I was found acceptable for induction into the armed services. But as I remember my records for the "physical" were marked incomplete, and for finding me "acceptable" when my records are marked incomplete, sounds far more *senseless*, than "common sense".

Also: Again: I refer you to my complete file in your records. That therein you will learn that as a Minister I have been and am still in Jehovah God's Army. Which makes me ineligible to serve in any other army. Because as Christ Jesus says: (John 18:36) "My Kingdom is not of this world: if my kingdom were of this world, then would my servants fight . . . And at Acts 5:29, "We ought to obey God rather than men" . . . In the Selective Training and Service Act of 1940 and as amended, by General Lewis B. Hershey, "the director of the Selective Service System, certifies that: in Section 5 (d): "Regular or duly ordained ministers of religion . . . shall be exempt from training and service (but not from registration). And under this act I am being classified improperly. Therefore I am asking once again for a personal appearance before you, Local Board

No. 14, to prove to you by your own laws that my proper classification should be that of a Minister IV-D.

Respectfully yours

[Signature]

Minister: Anthony T. Sicurella

GOVERNMENT'S EXHIBIT 2 R

SELECTIVE SERVICE SYSTEM INDIVIDUAL APPEAL RECORD

DEC 8 1950

(Local Board Date Stamp)

Name of registrant (Last) *Sicurella* (First) *Anthony* (Middle) *Tony* Selective Service Number *11 14 27 188*

Classified by local board in Class *1-A* until . . .

Date classified *November 8, 1950*

X Forwarded on appeal taken by *Registrant*

Date forwarded to Appeal Board *December 8, 1950*

H. J. Bittle

Member or Clerk of Local Board

Minutes of Action by Appeal Board

Appeal Board *Panel A* for the State of *Illinois* . . .
523 Plymouth Ct. Chicago 5, Ill. . . .

Classified in Class *1 A* until . . . by the following vote:

Yes *4* No *0* (Date of classification by Appeal Board)

JAN 17 1951

Nate T. Felt

Member or Clerk of Appeal Board

. . .

GOVERNMENT'S EXHIBIT 2 S

DEC 12 1950

[Local Board Stamp]

December 12, 1950

Mr. Anthony T. Sicurella
2642 North McVickers Avenue
Chicago, Illinois

Dear Sir:

Receipt is acknowledged of your letter of December 10, 1950, wherein you request a personal appearance before this Local Board.

In accordance with your request, your complete file has been forwarded to the Board of Appeal for review and consideration.

You will be notified of the decision of the Appeal Board.

Very truly yours,
For the local board:
H. J. Bittle
Clerk

ds

#11-14-27-188

GOVERNMENT'S EXHIBIT 2 T

Anthony T. Sicurella
2642 N. McVickers Av
Chicago 39, Illinois
January 25, 1951

[Penciled note]

Local Board No. 14

Group Office No. 1

226 W. Jackson Blvd

Chicago 6, Illinois

11-14-27-188

JAN 26 1951

[Local Board Stamp]

Gentlemen:

Upon receiving my latest classification of 1-A dated January 22, 1951 forces me once again to request a personal appearance to appeal this very much improper classification, before you. So once again I request a personal appearance - to appeal before you.

I do not understand just why you do not follow the orders from your superiors in Washington D. C. namely General Lewis B. Hershey, Director of Selective Service where points out in "Black and White" that he himself recognizes all the Jehovah's Witnesses and the Watchtower Bible and Tract Society as a religious organization. And he said among other things:

Facts: Jehovah's Witnesses claim exemption from training and service and classification in Class IV-D as duly ordained ministers of religion under Section 5(d), Selective Training and Service Act of 1940 . . .

Section 5(d): "Regular or duly ordained ministers of religion shall be exempt from training and service (but not from registration) under this act.

Also on April 3, 1943, General Hershey made his *Second Reprt* of the Director of Selective Service to the President, which was published in a book entitled 'Selective Service in Wartime (Government Printing Office, Washington, 1943).' In that report to President Roosevelt, he said in part, with respect to the definition given by National Headquarters to the vocation of ministers of religion.

The principle was extended to persons who were not in any strict sense ministers or priests in any sacerdotal sense. Of which included, (quote) the Jehovah's Witnesses, who sell their religious books, and thus extend the Word. Page 241.

In discharging one of Jehovah's Witnesses from the custody of the Selective Service System, the United States Court of Appeals for the Seventh Circuit, in *Hull v. Stalter*, 151 F. 2d 633 (1945) said: (in part)

Relator alleged that at the time of his registration and at the time of his final classification, the proof submitted by him to the Selective Service System showed that he was exempt as a minister of religion under ss 5(d) of the Selective Training and Service Act of 1940, as amended, in that he was a duly ordained minister of Jehovah's Witnesses and the Watchtower Bible and Tract Society, constituting a recognized religious *organization* under the act. . . .

. . . We have serious doubt that there was any justification for the Board's refusal originally to classify relator in IV-D. Whatever be thought, however, of the Board's original action in this respect, there can be no question but that subsequent proof conclusively demonstrated that he was entitled to such classification.

Such being the situation, the Board abused its discretion in its refusal to so classify him. Its action was arbitrary and unauthorized. The order discharging relator is affirmed.

In the above I have proved that not only General Lewis B. Hershey, but the courts of appeal also do recognize and do classify all Jehovah's Witnesses as ordained ministers in classification IV-D.

Therefore I do assume that you have over-looked all legal details and background in determining my proper classification of which is IV-D, according to the Selective Service and Training Acts and Codes as well as the *rule-ings* from Courts of appeal. Therefore I do properly claim to be classified in classification of IV-D, according to law.

Gentlemen:

I do not claim exemption from military service merely because the laws of the land says I can. But because I am in the army of Christ Jesus, serving as a soldier of Jehovah's appointed Commander, Christ Jesus. (2 Timothy 2: 3, 4) Inasmuch as the war weapons of the soldier of Christ Jesus are not carnal, I am not authorized by his *Commander* to engage in carnal warfare of this world. (2 Corinthians 10: 3, 4; Ephesians 6: 11-18) Furthermore, being enlisted in the army of Christ Jesus, I cannot desert the forces of Jehovah to assume the obligations of a soldier in any army of this

world without being guilty of desertion and suffering the punishment meted out to deserters by Almighty God.

Hoping to hear from you as well as to get my proper classification (so as I can continue to carry on my ministerial duty, as was Christ Jesus) I am:

Respectfully yours

[Signature]

Anthony T. Sicurella

GOVERNMENT'S EXHIBIT 2 U

JAN 31 1951

[Local Board Stamp]

31 January 51

SSS No. 11 14 27 188

Mr. Anthony T. Sicurella
2642 North McVickers Avenue
Chicago, Illinois

Dear Sir:

Since the Appeal Board by a vote of 4 to 0 upheld the Classification in class 1-A by the local board, no further personal appearance or appeal can be granted.

Yours very truly,

By Direction of the Board:
Herman J. Bittle, Clerk

HJB: eg

GOVERNMENT'S EXHIBIT 2 V

[Local Board Stamp]

FEB 5 1951

Pls note [Penciled note]

Anthony T. Sicurella
2642 N. McVicker
Chicago 39, Illinois
February 1, 1951
11-14-27-188

Local Board No. 14
Selective Service System
226 W. Jackson Blvd.
Chicago 6, Illinois

Gentlemen:

Since you the Local Board and the Appeal Board both have abused your discretion in improperly classifying me as 1-A instead of 4-D, an ordained minister, I am herewith informing you that I am also appealing my case to the President of the United States and also the Director of the Selective Service System, General Lewis B. Hershey. I will notify you of the results.

Hoping you will reconsider this case as many other boards have justly done so.

Respectfully yours,

Anthony T. Sicurella

GOVERNMENT'S EXHIBIT 2 W

SELECTIVE SERVICE SYSTEM
SPECIAL FORM FOR CONSCIENTIOUS OBJECTOR

FEB 9 1951

[Local Board Stamp]

Selective Service No. 11 14 27 188

Name (Last) *Sicurella* (First) *Anthony* (Middle) *Tony*
Address (Number and street or R. F. D. route) *2642 N. McVickers Ave.*, (City, town, or village) *Chicago 39*, (County) *Cook* (State) *Illinois*This form must be returned on or before (Five days after date of mailing or issue) *February 10, 1951*.

* * *

Series I.—Claim for Exemption

* * *

(B) I am, by reason of my religious training and belief, conscientiously opposed to participation in war in any form and I am further conscientiously opposed to participation in noncombatant training or service in the armed forces. I, therefore, claim exemption from combatant training and service and, if my claim is sustained, I understand that I will, because of my conscientious objection to noncombatant service in the armed forces, be deferred as provided in Section 6(j) of the Selective Service Act of 1948.

Anthony T. Sicurella
(Signature of registrant)

Series II.—Religious Training and Beliefs

* * *

1. Do you believe in a Supreme Being? Yes X . . .
2. Describe the nature of your belief which is the basis of your claim made in Series I above, and state whether or not your belief in a supreme being involves duties which to you are superior to those arising from any human relation.

The nature of my claim is that: I am already in the Army of Christ Jesus serving as a soldier of Jehovah's appointed Commander Jesus Christ. (2 Tim. 2: 3 & 4). Inasmuch as the war weapons of the soldier of Jesus Christ are not carnal, I am not authorized by his (continued on supplement)

SSS Form No. 150

[Page 2]

3. Explain how, when, and from whom or from what source you received the training and acquired the belief which is the basis of your claim made in Series I above.

Through regular Bible Study in the most efficient ministry school in the world, which is conducted in a manner similar to the tutorial and discussion groups used in the most modern universities. It is a regular course in Bible Study, comparative theology, public speaking, Bible History, and etc; with set coursed. And I as a minister continue to study regularly after my ordination as well as before.

4. Give the name and present address of the individual upon whom you rely most for religious guidance.

Watchtower Bible and Tract Society, Brooklyn, New York; Plus the Word of Almighty God itself the Bible.

5. Under what circumstances, if any, do you believe in the use of force?

Only in the interests of defending Kingdom Interests, our preaching work, our meetings, our fellow brethern and sisters and our property against attack. I (as well as all Jehovah's Witnesses) defend those when they are attacked and are forced to protect such intersts and scripturally so. Because in doing so we do not arm ourselves or carry carnal weapons in anticipation of or in preparation for trouble or to meet threats. (continued on supplement)

6. Describe the actions and behavior in your life which in your opinion most conspicuously demonstrate the consistency and depth of your religious convictions.

Ever since I was six years old, I have been regularly preaching and teaching the Gospel of the Kingdom just as it is stated at Matthew 24: 14 "And this gospel of the King-

dom shall be preached in the whole earth for a testimony and then shall the end come." I have been doing this work just as Jesus did, and I am still doing this 'Publicly and from house to house, and from the pulpits and platforms.' I also visit those who cannot attend rich or poor, weak or strong, sick or well and regardless of race.

7. Have you ever given public expression, written or oral, to the views herein expressed as the basis for your claim made in Series I above? If so, specify when and where.

On January 1940, I made a public consecration, by water immersion to our Creator Jehovah God through Jesus Christ. Thus wholly dedicating my vows to him through Christ. And in being wholly dedicated to Jehovah God through Christ, I have become no part of this world which is governed by political systems. For this important Bible reason I am telling you that I conscientiously object to serving in any military establishment or any civilian arrangement that substitutes for military service, (continued on supplement)

Series III.—General Background

* * *

1. Give the name and address of each school and college which you have attended, together with the dates of your attendance; . . .

Name of School	Type of School	Location of School	Dates Attended From—To—
<i>Jefferson</i>	<i>Public</i>	<i>Fillmore and Ashland</i>	<i>1933 1941</i>
		<i>Sts</i>	
<i>Cregier</i>	<i>Public</i>	<i>Fillmore and Wood</i>	<i>1941 1943</i>
<i>(Junior)</i>		<i>Sts</i>	
<i>McKinnley</i>	<i>Public</i>	<i>2040 West Adams</i>	<i>1943 1945</i>
<i>(Senior)</i>		<i>Street</i>	
<i>Kingdom Hall</i>	<i>Religious</i>	<i>5008 West Diversey</i>	<i>1949 Still</i>
<i>Kingdom Hall</i>	<i>Religious</i>	<i>2437 South Lawndale</i>	<i>1940 1949</i>

2. Give a chronological list of all occupations, positions,

jobs, or types of work, other than as a student in school or college, in which you have at any time been engaged, whether for monetary compensation or not, giving the facts indicated below with regard to each position or job held, or type of work in which engaged.

Type of Work	Name of Employer	Address of Employer	Period Worked
			From- To-
Clerk Typist	Railway Express	816 South Wells	1944 Still
and Assistant Secretary	Agency	Street	

[Page 3]

3. Give all addresses and dates of residence where you have formerly lived.

Name of City, Town, or Village	State or Foreign Country	Street Address or R. F. D. Route	Dates of Residence
			From- To-
Chicago 39	Illinois	1105 So. Hermitage, Ave.	1930 1949
Chicago 39	Illinois	2642 No. McVickers	1949 Still

4. Give the name and address of your parents and indicate whether they are living or not.

Antonio Sicurella and Mary Sicurella 2642 North McVickers, Chicago 39, Illinois Both Living.

5. (a) State the religious denomination or sect of your father *Jehovah's Witnesses*

(b) State the religious denomination or sect of your mother *Jehovah's Witnesses*

Series IV.—Participation in Organizations

• • •

1. Have you ever been a member of any military organization or establishment? If so, state the name and address of same and give reasons why you became a member.

No (None-never)

2. Are you a member of a religious sect or organization? (Yes or no) *Yes* If your answer to question 2 is "yes,"

answer questions (a) through (e).

(a) State the name of the sect, and the name and location of its governing body or head if known to you.

Jehovah's Witnesses - Watchtower Bible and Tract Society, Brooklyn, New York

(b) When, where, and how did you become a member of said sect or organization?

I was brought up in it, through my parents.

(c) State the name and location of the church, congregation, or meeting where you customarily attend.

Kingdom Hall 5008 West Diversey, Chicago 39, Illinois

(d) Give the name, title and present address of the pastor or leader of such church, congregation, or meeting.

Company Servant - George Lenz 5008 West Diversey, Chicago 39, Illinois

(e) Describe carefully the creed or official statements of said religious sect or organization in relation to participation in war.

Inasmuch as the war weapons of the soldier of Christ Jesus are not carnal, I am not authorized by his commander to engage in carnal warfare of this world. (2 Corinthians 10: 3, 4; Ephesians 6: 11-18) Also by the words of Jesus at . . . John 18: 36 - "My Kingdom is not of this world. If my Kingdom were part of this world then would my servants fight."

3. Describe your relationships with and activities in all organizations with which you are or have been affiliated, other than military, political, or labor organizations.

I am an ordained minister of the gospel, engaged in Christian educational work, associated with the Watchtower Bible and Tract Society, of New York. This work is done from the pulpits, platforms, publicly and from door to door. Also visiting those who cannot attend. Rich or poor, weak or strong, sick or well regardless of race.

[Page 4]

Series V.—References

Give here the names and other information indicated

concerning persons who could supply information as to the sincerity of your professed convictions against participation in war.

Name	Full Address	Occupation or Position	Relationship To You
George H. Lenz	3722 North Sayre	Company Servant	Brethern Minister
Harold S. McGuire	5355 West Leland	School Servant	Brethern Minister
Elmer H. Nordgren	6128 North Nagle	Sunday Study Conductor	Brethern Minister
Robert Walker	R. R. #1, Palatine, Illinois	Ordained Minister	Brethern Minister

Registrant's Certificate

. . .

I, *Anthony T. Sicurella*, certify that I am the registrant named and described in the foregoing statements in this questionnaire; that I have read (or have had read to me) the statements made by and about me, and that each and every such statement is true and complete to the best of my knowledge, information, and belief. The statements made by me in the foregoing (are, are not) *are* in my own handwriting.

Anthony T. Sicurella

(Signature or mark of registrant)

. . .

GOVERNMENT'S EXHIBIT 2 X

February 8, 1951

Supplement to: Special Form for Conscientious Objector
Series II

Question #2: Commander to engage in carnal warfare of this world. (2 Corinthians 10:3 & 4, Ephesians 6:11-18) Furthermore being enlisted in the army of Jesus Christ, I

cannot desert the forces of Jehovah to assume the obligations of a soldier in any army of this world without being guilty of desertion and suffering the punishment meted out to deserters by Almighty God. Also I follow the *admonition* given to us at Matthew 22:21, which states: "Render unto *Ceaser* the things that are *Ceaser's* and God's things unto God."

Question #5: In doing so I try to ward off blows and attacks only in defense. I do not use weapons of warfare in defense of myself or the Kingdom interests. I do not retreat when attacked in my home or at meeting places, but will retreat on public or other property and shake the dust off my feet; so not giving what is holy to dogs and not throwing my pearls before swines. (Matthew 10:14 & 7:6) So I retreat when I can do so and avoid a fight or trouble. Also following the admonition at Acts 24:16; which states "In this respect, indeed, I am exercising myself continually to have a consciousness of committing no offense against God and man."

Question #7: Just as Jesus told *Ceaser's* representative Pilate: "My Kingdom is not of this world. If my Kingdom were part of this world then would my servants fight." (John 18:36)

Gentlemen:

I hope I have made myself clear to you in regards to my stand toward the affairs of this world, through my answer to question number 7, series II; which states: . . . On January 1940, I made a public consecration by water immersion (in the same manner Jesus did) to our Creator Jehovah God through Christ. Thus wholly dedicating my vows to Him through Christ. And in being wholly dedicated to Jehovah God through Christ, I have become no part of this world which is governed by political system. Just as Jesus said at John 18:36: "My Kingdom is not of this world." For this important Bible reason I am letting you know that I conscientiously object to serving in any mili-

tary *establishment* or any civilian arrangement that substitutes for military service.

After supplying you additional proof and information through form or rather SSS form no. 150, toward the *sincerety* of my ministerial status, I trust you will grant me back my original and proper classification of IV-D. Hoping you will I remain:

Respectfully yours

[Signature]

Anthony T. Sicurella
2642 North McVickers
Chicago 39, Illinois

Selective Service No. 11-14-27-188

FEB 9 1951

[Local Board Stamp]

• • •

GOVERNMENT'S EXHIBIT 2 Z

Re: Anthony T. Sicurella
11-14-27-188

ILLINOIS STATE HEADQUARTERS
SELECTIVE SERVICE SYSTEM
523 Plymouth Court
Chicago 5, Illinois

In reply
Please Refer to File:
PGA:VN:hjr

[Local Board Stamp]
FEB 23 1951

21 February 1951

Local Board No. 14
Selective Service System
226 W. Jackson Blvd.
Chicago 6, Illinois

Gentlemen:

Thank you for forwarding the cover sheet of the captioned registrant to this office for review.

We are returning herewith the cover sheet with the request that this registrant be considered for a classification of 4-D inasmuch as there is evidence in the cover sheet that the registrant is a minister of religion. There is also in the cover sheet a Form 150, Special Form for Conscientious Objector.

In the event the local board, after reconsideration of case, retains the registrant in class 1-A, it should be forwarded to the Appeal Board for action in accordance with the regulations.

Please advise this office the result of the reconsideration.

Sincerely yours,
[Signature]
Paul G. Armstrong
State Director

Encl.

GOVERNMENT'S EXHIBIT 2 AA

MAR 10 1952

[Local Board Stamp]

March 10, 1952

Charles J. Magnesen, Lt. Col.,
Selective Service System
523 Plymouth Court
Chicago 5, Illinois

Re: Anthony Tony Sicurella
SS No. 11 14 27 188

Dear Sir:

We are forwarding herewith, the cover sheet of the above named registrant presently classified 4-D, for your review and recommendation.

Very truly yours,
For the Local Board:
G. J. Bittle
Clerk

HJB: eg
encl. Cover Sheet

GOVERNMENT'S EXHIBIT 2 AB

Re: Sicurella, Anthony Tony
SS 11-14-27-188

ILLINOIS STATE HEADQUARTERS
SELECTIVE SERVICE SYSTEM
523 Plymouth Court
Chicago 5, Illinois

In Reply
Please Refer to File
PGA : CJM : HKB : mm

13 March 1952

Local Board No. 14
Selective Service System
226 W. Jackson Blvd.
Chicago 6, Illinois

Gentlemen:

Transmitted herewith is the cover sheet and file of the above named subject which your local board sent to this Headquarters along with your letter of 10 March.

It is the opinion of this Headquarters that the above named registrant does not qualify for a IV-D, or minister of religion, classification as he does not meet all of the conditions set forth in Section 1622. 43 (3) SSR.

The local board is requested to reopen this file in accordance with Local Board Memorandum No. 176, dated

11 March 1951, and allow the registrant all of his rights of appeal.

Very truly yours,

[Signature]

Paul G. Armstrong

State Director

Encl.

Cover sheet

[Local Board Stamp]

MAR 14 1952

GOVERNMENT'S EXHIBIT 2 AC

Anthony T. Sicurella

2642 North McVickers

Chicago 39, Illinois

March 20, 1952

MAR 24 1952

[Local Board Stamp]

Selective Service System

Local Board No. 14

226 West Jackson Blvd.

Chicago 6, Illinois

11-14-27-188

Gentlemen:

I am *appealling* my change of classification from IV-D to I-A. And in doing so I wish to make a personal appearance before the whole Board Members, to once again give material as well as verbal proof of my ministerial status as of since 1932.

I also refer you to your very own laws pertaining: Section 5 - (d) Selective Service Act where General Lewis B. Hershey Director of Selective Service very clearly points out a basis for you to place judgment on or toward my proper classification of which is a Ministerial Status IV-D, just as I have been twice before - March 8, 1949 and March

13, 1951. (And having been IV-F previous to these classifications)

Selective Training Service Act - Section 5 (d)
"Regular or duly ordained ministers of religion
shall be exempt from training and service."

Awaiting to hear the date of such personal appearance
before you, I remain

Respectfully yours
Anthony T. Sicurella
Duly Ordained Minister
SSN 11-14-27-188

P. S.

For proof of all the above statements: please refer to
my file.

GOVERNMENT'S EXHIBIT 2 AD

APR 1 1952

[Local Board Stamp]

Mr. Anthony T. Sicurella
2642 N. McVickers Ave.
Chicago 39, Illinois

Dear Sir:

In accordance with your request for a personal appearance, you are hereby requested to appear before this local board on Monday, April 7, 1952, at 7 p.m. in Room 208, 226 W. Jackson Blvd., Chicago, Ill.

Please bring this letter with you.

Yours very truly,
By Direction of the Board
H. J. Bittle, Clerk

HJB:lr

No. SS 1-14-27-188

GOVERNMENT'S EXHIBIT 2 AE

11-14-27-188

Anthony T. Sicurella
2642 North McVickers
Chicago 39, Illinois
April 14, 1952

APR 18 1952

[Local Board Stamp]

Selective Service System

State Headquarters

State Director Col. R. G. Armstrong

523 South Plymouth Court

Chicago 5, Illinois

Dear Sir:

On April 8th, 1952 - my classification of IV-D was changed to I-A for what reason I do not know. Thus I am writing to you in appeal that you can and will grant me back my proper classification of IV-D as I have been previously classified, because I have been and still am engaged in my Ministerial duties; teaching and preaching the Gospel of the Kingdom, publicly and from house to house as well as from the pulpit, as admonished at Matthew 24: 14 "That this Gospel of the Kingdom shall be preached unto all the earth.

I also wish to quote Selective Service Acts of 1948: Sec. 6(g) - which reads: "Regular or duly ordained ministers of religion and students preparing for the ministry under the direction of recognized churches or religious organizations shall be exempt from training and service under this title." (in part) This I have been and still am engaged in, since 1933.

Also Sec. 6 (j) (in part) "Nothing contained in this title shall be construed to require any person to be subject to combatant service and training, who by reason of religious belief, is *conscientiously* opposed to participation in war in any form. Religious training and belief in this connection means an individuals belief in a relation to a Supreme Being

involving duties Superior to those *ariving* from any human relations. (Acts 5:29 "We must obey God, rather than men.") If one is found to be *concientiously* opposed to participation in such noncombatant service, he shall be deferred. Also: If the objector is found to be *concientiously* *apposed* to participation in such noncombatant service, he shall be deferred."

I also wish to state that I do not claim exemption from military service merely because the laws of the land says I can, but because I am already in an army which is that of Christ Jesus, serving as a soldier of Jehovah God's appointed commander Jesus Christ. (2 Tim. 2-3 & 4)

Hoping that you will grant me back my original and proper classification of IV-D, according to law so I can continue to carry on my ministerial duties, I remain:

Respectfully yours

[Signature]

Anthony T. Sicurella

SSN 11-14-27-188

My board is
#14.

GOVERNMENT'S EXHIBIT 2 AF

**SELECTIVE SERVICE SYSTEM
INDIVIDUAL APPEAL RECORD**

APR 18 1952

(Local Board Stamp)

Name of registrant (Last) *Sicurelia* (First) *Anthony* (Middle) *T.* Selective Service Number *11 14 27 188*

Classified by local board in Class *1-A . . .*

Date classified *April 7, 1952*

X Forwarded on appeal taken by *registrant*

Date forwarded to Appeal Board *April 18, 1952*

H. J. Bittle

Clerk of Local Board

Minutes of Action by Appeal Board

Appeal Board Northern District *Panel N - 1* for the
State of . . . *Illinois* . . .

APR 21 1952

[Appeal Board Stamp]

Classified in Class *I A* until . . . by the following vote:

Yes 3 No 0 (Date of classification by Appeal Board) *May*
21 1952

Nate T. Felt

Member or Clerk of Appeal Board

* * *

SSS Form No. 120

GOVERNMENT'S EXHIBIT 2 AG

Anthony T. Sicurella
2642 No McVickers Av
Chicago 39, Illinois
May 31, 1952

JUN 4 1952

[Local Board Stamp]

Selective Service System
State Director
Col. R. R. Armstrong
523 South Plymouth Court
Chicago 5, Illinois

Dear Sir:

In reference to my re-classification of I-A from IV-D,
dated May 23, 1952 - I wish to make reference to my con-
scientious objector form on file which has been overlooked.

If you do not recognize me to be a minister and in class

IV-D, I wish you would give full consideration to my conscientious objector form in which I clearly state that my conscientious objections are based on my ministerial status and religious beliefs and that such should according to Selective Service Acts of 1948 entitle me to a classification as one opposed to both combatant and noncombatant service.

Therefore once again I am writing to you in appeal to further view my file and give due and full consideration to my conscientious objector form in my file and to be classified as one opposed to both combatant and non-combatant service, and in class IV-E.

Sec. 6(j) (in part) "Nothing contained in this title shall be construed to require any person to be subject to combatant service and training, who by reason of religious belief, is conscientiously opposed to participation in war in any form. Religious training and belief in this connection means an individual's belief in relation to a Supreme Being involving duties Superior to those *arriving* from any human relations. (Acts 5:29 - "We must obey God rather than men.") If one is found to be conscientiously opposed to participation in such non-combatant service he shall be *deferred*. Also: If the objector is found to be conscientiously opposed to be or take part in such non-combatant service he shall be deferred."

Hoping you will grant me the above, I remain;

Respectfully yours

[Signature]

Anthony T. Sicurella

11-14-27-188

GOVERNMENT'S EXHIBIT 2 AH

Anthony T. Sicurella
2642 No. McVickers Av
Chicago 39, Illinois
June 9, 1952

Pls note [penciled note]

JUN 11 1952

Local Board #14
Selective Service System
226 West Jackson Blvd.
Chicago 6, Illinois

Gentlemen:

In *recieving* a reply from the State Headquarters of Selective Service from Col. Armstrong concerning my classification; he states that it is up to the local board to classify the registrants.

Therefore once again, if you do not recognize me to be a Minister and in class IV-D, you should according to law consider my conscientious objector's form in my file of which should entitle me to classification as one opposed to both Combatant and Non-Combatant service and in class IV-E.

Hoping that you will as God fearing Christians unprejudicially and seriously grant me the above since it is my ministerial status and religious belief, I remain:

Respectfully yours,

[Signature]

Anthony T. Sicurella
11-14-27-188

GOVERNMENT'S EXHIBIT 2 AI

Re: Sicurella, Anthony T.
11-14-27-188

ILLINOIS STATE HEADQUARTERS
SELECTIVE SERVICE SYSTEM
523 Plymouth Court
Chicago 5, Illinois

[Local Board Stamp]
JUN 16 1952

STATE DIRECTOR'S ACTION

To: Local Board No. 14

In the case of: Anthony T. Sicurella

Selective Service No. 11-14-27-188 of your local board.

Pursuant to authority granted me under Part 1606.33, Selective Service Regulations, the following State Director's Action is taken with reference to the above-named registrant:

Please forward cover sheet to this office for transmittal to National Headquarters for review.

The above action is necessary in the administration of Selective Service and is not to be considered as a criticism of the local board.

The local board will act promptly and result of completed action by the board will be reported as soon as possible on the enclosed duplicate. (If more than one action, report all at same time.) No registrant shall be inducted while his file is away from the board office.

Paul G. Armstrong, State Director
By: [Signature]

Date: 13 June 1952

PGA: VN: hjr

Report of Board Action (Fill out and return duplicate to officer named above.) The following action was taken in connection with the above request: Cover Sheet forwarded

to State Headquarters for transmittal to National Headquarters for review.

Local Board No. 14
(sign) By: H. J. Bittle
Title: Clerk

JUN 16 1952
[Local Board Stamp]
PM-821

GOVERNMENT'S EXHIBIT 2 AJ

Re: Sicurella, Anthony Tony
SS 11-14-27-188

ILLINOIS STATE HEADQUARTERS
SELECTIVE SERVICE SYSTEM
523 Plymouth Court
Chicago 5, Illinois

In Reply
Please Refer to File:
PGA: CJM: HKB: mm

2 July 1952

Local Board No. 14
Selective Service System
226 W. Jackson Blvd.
Chicago, Illinois

JUL 3 1952
[Local Board Stamp]

Gentlemen:

The cover sheet of the named registrant is returned herewith and, in accordance with the provisions of Section 1625.3 of the Selective Service Regulations, it is requested that the local board reopen and consider anew the classification of this registrant.

Although the record discloses that the registrant has on several occasions been granted a personal appearance, there is no indication of the nature of the evidence he submitted on such occasions, nor is there a certificate from the local board that the written evidence contained in this rec-

ord represents a full and complete summary of all of the evidence presented, including that presented by the registrant on the occasion of his personal appearances. It further appears that no reference to the Department of Justice was made by the appeal board in spite of the fact that the registrant has claimed conscientious objection, which has not been sustained by the local board or the appeal board.

The local board is requested to give the registrant another opportunity for a personal appearance. Following such personal appearance, the local board shall summarize in writing, in accordance with the provisions of Section 1624.2 (b) of the Selective Service Regulations any new and material evidence that may be presented by the registrant and include such summary in the cover sheet for the benefit of the appeal board in the event an appeal is taken. Following its action in considering anew the registrant's classification, after an opportunity for personal appearance has been accorded him the local board should preserve all rights of appeal for all interested parties.

Very truly yours,
[Signature]
Paul G. Armstrong
State Director

Encl.

Cover sheet

GOVERNMENT'S EXHIBIT 2 AK

JUL 8 1952

[Local Board Stamp]

July 8, 1952

Anthony T. Sicurella,
2642 N. McVickers Ave.,
Chicago 39, Ill.

SS No. 11-14-27-188

Dear Sir:

You are hereby requested to appear before the local

board on Monday, July 14, 1952, at 8:00 P. M., room 208, 226 West Jackson Blvd., Chicago, Ill. Bring this letter with you.

Yours very truly,
By Direction of the Board
H. J. Bittle, clerk

HJB-EH

GOVERNMENT'S EXHIBIT 2 AL

MEMORANDUM OF INFORMATION RECEIVED AT BOARD MEETING

To be filed in Cover Sheet of: (Registrant's Name) Anthony Tony Sicurella (SS Number) 11 14 27 188

Following is summary of information received at local board meeting held (Date) 7/14/52

Are you a duly ordained minister? Yes

When were you ordained? Feb - 1943

By whom? Congregational Church Western & Jackson Blvd (Congregation Church)

Do you regularly hold services in a public place of worship? twice a month

Where are these services held? 5008 West Diversey Ave.

What is the basis of your claim for IV-D Classification? Jehovah Witness

The above information was received from: Anthony Tony Sicurella, Registrant (Name of registrant, dependent, board member, clerk or other person who provided the above information)

Signed: [Signature] Member

(Signature of board member or clerk who prepared this

Memorandum)

PM-1104

GOVERNMENT'S EXHIBIT 2 AM

Anthony T. Sicurella
 2642 North McVickers
 Chicago 39, Illinois
 July 21, 1952

JUL 22 1952
 [Local Board Stamp]

[Penciled note] Pls note

Selective Service System
 Local Board No. 14
 226 West Jackson Blvd
 Chicago 6, Illinois

11-14-27-188

Gentlemen:

I am *appealling* my change of classification from IV-D to I-A. In doing so I wish to make a personal appearance before the whole board members, to once again give material as *wells* as verbal proof of my ministerial status as of since 1932.

I also refer you to your very own laws pertaining: Section 5-(d) Selective Service Act where General Lewis B. Hershey Director of the Selective Service very clearly points out a basis for you to place *judgement* on or toward my proper classification of which is a ministerial status in class IV-D, just as I have been twice before, March 8, 1949 and March 13, 1951.

Selective Training Service Act - Section 5 (d)
 "Regular or duly ordained ministers of religion
 shall be exempt from training and service."

Awaiting to hear the date of such personal appearance before you, I remain:

Respectfully yours

[Signature]

Anthony Tony Sicurella
 Duly Ordained Minister
 SSN 11-14-27-188

P. S.

For proof of all the above statements: please refer to my file.

GOVERNMENT'S EXHIBIT 2 AN

JUL 23 1952

[Local Board Stamp]

Anthony T. Sicurella
2642 N. McVickers
Chicago 39, Illinois

July 23, 1952
SS No. 11 14 27 188

Dear Sir:

On July 14, 1952, you appeared before three members of this board, therefore, your request to appear again before the whole board is denied. According to Selective Service Regulations, one member alone is sufficient to conduct a hearing.

If it is your desire to furnish additional information to be incorporated in your file please forward to this board at once.

Very truly yours,

For the Local Board:
H. J. Bittle
Clerk

HJB: eg

GOVERNMENT'S EXHIBIT 2 AO

DEPARTMENT OF JUSTICE
Washington, D. C.

Appeal Board
Illinois
JAN 26 1953
523 Plymouth Ct.
Chicago 5, Ill.

January 23, 1953

Chairman, Appeal Board, Northern
District of Illinois
Selective Service System
523 Plymouth Court
Chicago, Illinois

Re: Anthony Tony Sicurella
S. S. No. 11-14-27-188

Dear Sir:

As required by section 6(j) of the Universal Military Training and Service Act, an inquiry was made in the above-mentioned case and an opportunity to be heard on his claim for exemption as a conscientious objector was given to the registrant by Honorable Roy O. West, Hearing Officer for the Northern District of Illinois.

Registrant is twenty-five years of age, single and a high school graduate. Since January 1944 he has been employed as a clerk by the Railway Express, in Chicago, Illinois. Together with his parents registrant is a member of the Jehovah's Witnesses. In his SSS Form No. 100, filed in January 1949, registrant states that he has been a "minister" of the sect since 1934, and that he was formally ordained in January 1944. He did not sign Series XIV indicating conscientious objection to war but did indicate that he should be classified 4-D as a minister. Registrant was classified I-A in October, 1950, and first advanced his conscientious objector claim in February, 1951. In his SSS

Form No. 150 registrant describes the nature of his claim as follows: " . . . I am already in the Army of Christ Jesus serving as a soldier of Jehovah's appointed Commander Jesus Christ. . . ." He relies on the Watchtower Bible and Tract Society for religious guidance and received the training and acquired the belief which is the basis of his claim "through regular Bible study in the most efficient ministry school in the world. . . ." Registrant believes in the use of force "only in the interests of defending Kingdom Interests, our preaching work, our meetings, our fellow brethren and sisters and our property against attack. I (as well as all Jehovah's Witnesses) defend those when they are attacked and are forced to protect such interests and scripturally so . . . "

The investigation reflects that neighbors, associates, employers, fellow workers, teachers and references all advised that registrant is of good character and reputation. References and fellow church members advised that registrant has been an active member of the Jehovah's Witnesses for approximately ten years in the Chicago area and believe him to be sincere in his religious convictions. High school teachers, some fellow employees and neighbors, however, are not aware of registrant's religious training or his convictions of the matter of participation in war. One fellow employee feels that registrant is "trying to dodge the draft and that he is not sincere in his claim as a conscientious objector" but he could offer no facts to substantiate this belief.

Registrant appeared for his hearing accompanied by a number of members from his Jehovah's Witnesses unit, all of whom attested to his good character and the sincerity of his claim. Registrant stated that he attends Jehovah's Witnesses meetings regularly and devotes eight hours a week as a minister to that cause. He further stated that he has been "Study Conductor" for that group for four years; that he attends Church services every Sunday; that he prays daily, says Grace at meals and studies his Bible.

The Hearing Officer stated he was convinced that regis-

trant has sincere objections to military service by reason of his religious training and beliefs and he recommended a I-O classification.

While the registrant may be sincere in the beliefs he has expressed, he has, however, failed to establish that he is opposed to war in any form. As indicated by the statements on his SSS Form No. 150, registrant will fight under some circumstances, namely in defense of his ministry, Kingdom Interests, and in defense of his fellow brethren. He is, therefore, not entitled to exemption within the meaning of the Act.

After consideration of the entire file and record, the Department of Justice finds that the registrant's objections to combatant and noncombatant service are not sustained. It is, therefore, recommended to your Board that registrant's claim for exemption from both combatant and non-combatant training and service be not sustained.

The Selective Service Cover Sheet in the above case is returned herewith.

Sincerely,

[Signature]

T. Oscar Smith

Special Assistant to the Attorney General

Appeal Board

Illinois

JAN 26 1953

523 Plymouth Ct.

Chicago 5, Ill.

GOVERNMENT'S EXHIBIT 2 AP

SELECTIVE SERVICE SYSTEM

INDIVIDUAL APPEAL RECORD

AUG 14 1952

(Local Board Date Stamp)

Name of registrant (Last) *Sicarella* (First) *Anthony* (Middle) *Tony* Selective Service Number *11 14 27 188*

Classified by local board in Class *1-A* until . . .
 Date classified *July 14, 1952*

X Forwarded on appeal taken by *Registrant*
 Date forwarded to Appeal Board *August 14, 1952*

H. J. Bittle
 Clerk of Local Board

Minutes of Action by Appeal Board
 Appeal Board *Northern District Panel N-II* for the
 State of . . . *Illinois* . . . *AUG 15 1952* [Appeal Board
 Stamp]

Classified in Class *1-A* until . . . by the following vote:
 Yes *4* No *0* (Date of classification by Appeal Board)
FEB 10 1953

[Signature]
 Member or Clerk of Appeal Board

* * *

SSS Form No. 120

GOVERNMENT'S EXHIBIT 2 AQ

SELECTIVE SERVICE SYSTEM ORDER TO REPORT FOR INDUCTION

FEB 19 1953
 (Local Board Date Stamp with Code)

FEB 19 1953 (Date of mailing)
 The President of the United States,

To (First name) *Anthony* (Middle name) *Tony* (Last
 name) *Sicurella* (Selective Service Number) *11 14 27 188*
 (Street and number) *2642 North McVickers Avenue* (City)
Chicago 39 (State) *Illinois*

Greeting:

Having submitted yourself to a Local Board composed
 of your neighbors for the purpose of determining your
 availability for service in the armed forces of the United
 States, you are hereby ordered to report to the Local Board

named above at (Place of reporting) *615 West Van Buren St; 4th floor, Chicago, Ill.* at(Hour of reporting) *7:00 A m., promptly* on the *5th* day of *March*, 1953 for forwarding to an induction station.

* * *

[Signature]

Member of Local Board

SSS Form No. 252

* * *

GOVERNMENT'S EXHIBIT 2 AR

Anthony T. Sicurella
2642 No. McVickers Ave.
Chicago 39, Illinois
February 26, 1953

Local Board No. 14
Selective Service System
226 West Jackson Blvd
Chicago 6, Illinois

Gentlemen:

In asking Mr. Bittle to see my file in your office at about 4:00 P.M. on Thursday - February 26, 1953, after looking through it I found that part of my file is missing and incomplete. The following I did not see: a copy of my Presidential Appeal dated Febraury 3, 1951. The 1. ral Booklet, which stresses and points out my reason for the classification I asked for, a IV-D according to law. And also the out-come of or from the hearing I had before Mr. Ro[y] C. West in the Old Post Office Building and the F.B.I. report of which I have the right to see.

I wish to know just how or why these items are missing from my file. And how a classification can be given a registrant whose file is incomplete.

To explain further I will gladly appear before you at a set date.

I would also like to inform you that I *send* in another Presidential Appeal, and explaining to him or them that I got an Induction Notice before my ten days of appeal from my last classification was up or due.

I also notice that in my file both you the Local Board and the Appeal Board failed to recognize section 6(j) of the Selective Service Acts in determining my proper classification of which reads in part:

Sec. 6(j) if the objector is found to be conscientiously opposed to participation in such non-combatant service, he shall be deferred.

Trusting all this will be *straightn'd* out, also my Induction Notice which is scheduled for March 5th, 1953, I remain:

Respectfully yours
Anthony T. Sicurella
11 14 27 188

FEB 27 1953

[Local Board Stamp]

cc: National Hdqtrs

GOVERNMENT'S EXHIBIT 2 AS

CHICAGO ARMED FORCES EXAMINING
INDUCTION & RECRUITING MAIN STATION
615 West Van Buren Street
Chicago 7, Illinois

6 March 1953

Local Board No. 14
Selective Service System
226 West Jackson Blvd
Chicago 6, Illinois

Re: Sicurella, Anthony Tony
SS# 11 14 27 188

Gentlemen:

The above named registrant reported to this station on 5 March 1953, for induction into the U. S. Armed Forces. Upon arrival at this station Mr. Sicurella refused to be inducted.

In compliance with Paragraph 27b, Special Regulations 615-180-1, Department of the Army, dated 5 November 1951 letter as required explaining the action of subject registrant have been forwarded to the U. S. District Attorney, and the State Director of Selective Service.

Transmitted herewith are registrants DD Forms 47 and other allied papers. Copy of above mentioned letter is also forwarded for your files.

Very truly yours,
[Signature]
Harold Gramm
1st Lt Infantry
OIC, Induction Section

10 Incls.

* * *

GOVERNMENT'S EXHIBIT 2 AT

RECORD OF INDUCTION

* * *

MAR 5 1953

[Local Board Stamp]

1. Last Name - First Name - Middle Name

Sicurella, Anthony Tony

2. Service No. . . . US55-377-353

* * *

4. Selective Service No. 11 14 27 188

* * *

10a. Present Civilian Trade or Occupation . . . Minister (Watchtower Bible and Tract Society)

* * *

DD Form 47 . . .

[Page 2]

* * *

Section VI - Results of Preinduction Examination . . .

23. I certify that the qualifications of the above named registrant have been considered in accordance with the current regulations governing the acceptance of Selective Service registrants and he was this date:

a. X Found acceptable for service in the Armed Forces

* * *

Date *MAR 5 1953* Place *Induction Station, Chicago Ill.*

* * *

*Earl Eubanks**Major USAF*

* * *

* * *

NOTICE OF APPEAL

(Filed October 1, 1953)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
Eastern Division

(Caption—53 CR 288)

* * *

I.

Name and address of appellant is ANTHONY TONY SICURELLA, 2642 North McVickers Avenue, Chicago, Illinois.

II.

Name and address of appellant's counsel is KARL M. MILGROM, 19 South La Salle Street, Chicago, Illinois.

III.

Offense: A violation of the Universal Military Training and Service Act, Section 462, Title 50, Appendix, United States Code, by failure to submit to induction.

IV.

The defendant was convicted upon a plea of not guilty of the above-described offense by a finding of guilty by the Court, and was sentenced and committed on September 23, 1953 to the custody of the Attorney General of the United States for a period of two years.

V.

The above-named appellant hereby appeals to the United States Court of Appeals for the Seventh Circuit from the above-stated judgment.

Dated October 1, 1953.

Karl M. Milgrom
Counsel for Appellant

* * *

STATEMENT OF POINTS

(Filed October 26, 1953)
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
Eastern Division

(Caption—53 CR 288)

Now comes the defendant-appellant in the above cause and states the points on which he intends to rely on the appeal.

ONE.

The trial court committed error in granting the motion to quash the subpoena duces tecum issued by the Clerk of that court at the request of the defendant, requiring the

production at the trial of a certain Federal Bureau of Investigation investigative report submitted to Roy West, as Hearing Officer of the United States Department of Justice, in connection with the hearing conducted by said Hearing Officer relating to the conscientious objector Selective Service status of the defendant.

TWO.

The trial court committed error in excluding the respective testimonies of the defendant, and his brothers, PAT SICURELLA and JOSEPH SICURELLA, as to the remarks of Mr. DE LEONARDIS, a member of the local draft board, said remarks being made immediately prior to the defendant's hearing before that board, and indicating prejudice against the defendant because of his religion, which prejudice deprived him of a fair hearing. The proffered testimonies and offers of proof are too long to be included here. See: from about pages 48 to 51, inclusive, of the stenographic transcript of proceedings as to such excluded testimony of the defendant; about pages 86 and 87, as to such excluded testimony of PAT SICURELLA; and about pages 90 and 91, as to such excluded testimony of JOSEPH SICURELLA.

THREE.

The trial court erred in overruling the motion for judgment of acquittal made at the close of all the testimony.

FOUR.

The trial court erred in sentencing the defendant.

WHEREFORE, defendant-appellant prays that upon appeal the trial court's judgment be reversed for each and every one of the reasons set forth in the above points upon appeal.

Karl M. Milgrom
Attorney for Defendant-Appellant,
Anthony Tony Sicurella

* * *

* * *

[fol. 109]

[Caption omitted]

IN UNITED STATES COURT OF APPEALS FOR THE
SEVENTH CIRCUIT

No. 11012

UNITED STATES OF AMERICA, PLAINTIFF-APPELLEE

VS.

ANTHONY TONY SICURELLA, DEFENDANT-APPELLANT

Appeal from the United States District Court for the North-
ern District of Illinois, Eastern Division.

DOCKET ENTRIES

Nov. 7, 1953. Filed Transcript of Record.

Nov. 7, 1953. Filed appearance for appellant. (K. M. Milgrom)

Nov. 14, 1953. Filed Election of counsel to print record.

Nov. 17, 1953. Filed Appearance for appellee. (Otto Kerner, James B. Parsons)

Nov. 20, 1953. Filed appearance for appellant. (Hayden C. Covington)

Nov. 20, 1953. Filed original and 4 copies Motion and Stipulation to extend time for designation to Dec. 5, 1953.

Nov. 24, 1953. Entered order extending time for appellant's Designation to Dec. 5, 1953.

Dec. 4, 1953. Filed Appellant's Designation.

Dec. 28, 1953. Filed 50 copies Printed Record.

Jan. 14, 1954. Filed 30 copies Appellant's Brief.

Feb. 17, 1954. Filed original and 4 copies motion and affidavit to extend time for appellee's Brief to Mar. 22, 1954.

Feb. 23, 1954. Entered order extending time for appellee's Brief to Mar. 22, 1954.

Mar. 22, 1954. Filed original and 4 copies Motion and affidavit to extend time for appellee's Brief to Apr. 15, 1954.

Mar. 26, 1954. Filed original and 4 copies answer to Motion.

Mar. 26, 1954. Entered order extending time for appellee's Brief to April 5, 1954.

Apr. 5, 1954. Filed 30 copies appellee's Brief.

Apr. 14, 1954. Filed original and 4 copies motion and affidavit to extend time for Reply Brief to Apr. 20, 1954.

Apr. 14, 1954. Entered order granting Motion.

Apr. 19, 1954. Filed 30 copies Reply Brief.

Apr. 21, 1954. Heard and taken under advisement.

Apr. 23, 1954. Filed 4 typed appellants Memorandum.

May 7, 1954. Entered order that appellee's Supplemental Memorandum be filed nunc pro tunc as of May 4, 1954.

May 7, 1954. Filed 5 copies typed Appellee's Memorandum nunc pro tunc as of May 4, 1954.

Jun. 15, 1954. Filed Opinion be Lindley, C.J.

Jun. 15, 1954. Entered Judgment Affirming.

Jun. 18, 1954. Filed Designation of Supreme Court Record.

[fol. 110] IN THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT, OCTOBER TERM, APRIL SESSION, 1954.

No. 11012

UNITED STATES OF AMERICA, PLAINTIFF-APPELLEE

vs.

ANTHONY TONY SICURELLA, DEFENDANT-APPELLANT

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division

OPINION—Filed June 15, 1954

Before MAJOR, *Chief Judge*, DUFFY and LINDLEY, *Circuit Judges*.

LINDLEY, *Circuit Judge*. This appeal is companion to *United States v. Robert Simmons*, No. 11011. Although the cases were combined for oral argument, separate opinions seem desirable for purposes of clarity.

The appeal is taken from a judgment of conviction of refusing to submit to induction into the armed forces in violation of 50 App. U.S.C. Sec. 462. In his questionnaire appellant stated that he was an ordained minister of Jeho-

vah's Witnesses and a student at a ministry school operated by that sect. He asserted a right to a IV-D, minister of religion classification. This claim was ultimately denied by the selective service authorities and is not in issue before us.

In his questionnaire appellant asserted no claim to conscientious objector status. After denial of his ministerial claim, he filed an application for a I-O, conscientious objector, classification, in which he asserted that by reason of his religious training and belief he was conscientiously opposed to participation in war in any form. He was [fol. 111] granted a hearing on this claim by his local board, which classified him I-A. Appellant took an appeal from this classification to the state appeal board. His file was referred by the appeal board to the Department of Justice for its investigation and recommendation. An investigation was conducted by the F.B.I. A hearing was held before a Department hearing officer at which appellant appeared, together with a number of witnesses in his behalf. At his trial he testified that he asked the hearing officer for a summary of the adverse evidence contained in his F.B.I. file. He quoted the hearing officer as answering, "There is no use telling you, because it is favorable." The hearing officer recommended to the Department that his claim be sustained. Because appellant had expressed a willingness to use force in defense of "Kingdom Interests", and therefore was not opposed to war in any form, the Department of Justice in its report recommended to the appeal board that his claim be denied and that he be classified I-A.

The appeal board classified him I-A and the induction order followed. Appellant admits that he refused to submit to induction when ordered to do so, but contends that the order is void, averring that there is no basis in fact for denying his conscientious objector claim and that he was denied due process of law in certain stages of the classification process to be subsequently related.

We have previously outlined the principles guiding our determination of the basis in fact question in the opinion in *United States v. Simmons*. Applying those principles, on the record before us we cannot say that the appeal

board's denial of appellant's claim was without basis in fact. The question whether a belief in the use of force in self-defense and in theocratic warfare is incompatible with a claim of conscientious objection has been considered by the courts of several circuits. In *United States v. Dal Santo*, 205 F. 2d 429, 433, cert. denied 346 U.S. 858, we expressed the view that a denial of a conscientious objector classification solely on the basis that, "believing in self-defense", a registrant "could not qualify as a conscientious objector" would, at most constitute an erroneous classification which would be final and not subject to correction by judicial review. In *Annett v. United States*, 205 F. 2d 689, the Court of Appeals for the Tenth Circuit, one judge dissenting, held void a classification denying Annet's claim [fol. 112] to conscientious objector status which the court found was based solely on the defendant's expressed belief in the use of force in self-defense. This decision has been followed in *United States v. Taffs*, 208 F. 2d 329, cert. denied 347 U.S. 928 (C.A. 8); *United States v. Hartman*, 209 F. 2d 366 (C.A. 2); and *United States v. Pekarski*, 207 F. 2d 930 (C.A. 2).

In view of the most recent pronouncement by the Supreme Court in *Dickinson v. United States*, 346 U.S. 389, 396, that courts may not apply "a test of 'substantial evidence'" to this type of case, it would appear that the cases last cited rest on an incorrect theory of the scope of judicial review, thus rendering their authoritative value speculative. The majority of the court in the *Annet* case treated the expression of belief in the use of force for limited purposes as evidentiary but reversed Annet's conviction because of a "lack of any substantial evidence" to support the board's denial of his conscientious objector claim. The court in the *Pekarski* case reiterated this test in holding a classification order void because supported by "no substantial evidence." The courts in the *Hartman* and *Taffs* cases based their decisions solely on the basis of the majority opinion in *Annet* without the benefit of any discussion of the merits of that decision.

We think that this court, speaking through Judge Duffy, expressed the correct view in the *Dal Santo* case. Whether or not appellant's willingness to use force in defense of

"Kingdom Interests" is incompatible with a claim of conscientious objection to participation in war, his statement is an appropriate factor for the board to consider when ruling on his claim as bearing on the question whether he has brought himself within the statutory privilege. Furthermore, this circumstance does not stand alone in the record before us. Statements made by appellant in his SSS Form 150 express an objection to any and all obedience to secular authority. Thus he stated that he is "no part of this world which is governed by political systems," that he conscientiously objects "to serving in any military establishment or any civilian arrangement that substitutes for military service" and that he "cannot desert the forces of Jehovah to assume the obligations of a soldier of this world without being guilty of desertion."

Two things are apparent on the face of these statements, [fol. 113] i.e., that appellant set himself separate and apart from all other persons as immune from the constitutional dictates of the national government and that he is asserting a claim of exemption extending to both military and civilian service under the Act, a claim which goes beyond the statutory exemption. 50 App. U.S.C. Sec. 456(j). These claims are consistent only with objections to any command of governmental authority, but do not *per se* establish that deep seated conscientious belief which would entitle appellant to the claimed exemption. On this basis the board could conclude that appellant had not proved himself within the terms of the statutory privilege. Only the boards, local and appellate, are empowered to make that determination. We cannot say that the order here challenged is without a basis in fact.

Equally wanting in merit is appellant's contention that the order is tainted by fatal error on the part of the Department of Justice and therefore void. This contention is twofold, viz, that the Department erred in rejecting the hearing officer's recommendation that appellant's claim be allowed and that the recommendation to the appeal board was based on an erroneous ground that a belief in the use of force under certain circumstances is incompatible with a claim of conscientious objection to war. Suffice it to state as to the former that the hearing officer's report

is merely advisory and only one of the factors considered by the Department in framing its recommendation to the board. As to the latter, if we assume that the Department's recommendation to the appeal board was based on an erroneous ground, that report is advisory only and was, as we have previously indicated, predicated on an evidentiary factor competent for consideration by the appeal board, the body charged by the Act with the duty to make the determinative judgment on each appealing registrant's claim. 50 App. U.S.C. Sec. 456(j); *United States v. Nugent*, 346 U.S. 1, 9.

For the reasons stated in *United States v. Simmons*, appellant's principal contentions must also fail. As did Simmons, appellant contended below that he was entitled as a matter of right to a full summary of the adverse evidence in his F.B.I. file at the time of his Justice Department hearing and that, therefore, the file must be produced at his trial to enable the court to determine whether he was given this requisite summary. To this end he procured the [fol. 114] issuance of a subpoena *duces tecum* to compel the production of the file at his trial. On the government's motion, the court below quashed the subpoena. This action is assigned as error. In view of what was said in the *Simmons* case, it is sufficient to state that no prejudice to appellant is shown on the face of the record.

Appellant testified that he was told by the hearing officer that the F.B.I. report was favorable to his claim. The report of the Department of Justice to the appeal board states that the evidence in the file is favorable and that the Department placed no credence in an adverse opinion by one person questioned by the F.B.I. "who could offer no facts to substantiate" this opinion. The file was never before the appeal board; nothing before that body indicated that any adverse evidence was contained in it. This situation is essentially similar to that which the Supreme Court recited as refuting an alleged denial of the right to be advised of evidence adverse to the registrant's claim in *United States v. Packer* (*United States v. Nugent*), 346 U.S. at page 7, n. 10. Appellant cannot have been prejudiced by adverse evidence, if any, contained in the secret file. That file was irrelevant to any issue before the court below and the court properly quashed the subpoena.

On the record before us we cannot say that the denial of appellant's claim was without basis in fact or that appellant was denied due process of law in any stage of the administrative process. The judgment is affirmed.

[fol. 115] IN UNITED STATES COURT OF APPEALS

Tuesday, June 15, 1954

Before:

Hon. J. Earl Major, Chief Judge
Hon. F. Ryan Duffy, Circuit Judge
Hon. Walter C. Lindley, Circuit Judge

No. 11012

UNITED STATES OF AMERICA, PLAINTIFF-APPELLEE

VS.

ANTHONY TONY SICURELLA, DEFENDANT-APPELLANT

Appeal from the United States District Court for the
Northern District of Illinois, Eastern Division

JUDGMENT—Entered June 15, 1954

This cause came on to be heard on the transcript of the record from the United States District Court for the Northern District of Illinois, Eastern Division, and was argued by Counsel.

On consideration whereof: It is ordered and adjudged by this Court that the Judgment of the said District Court in this cause appealed from be, and the same is hereby, affirmed.

[fol. 116] Clerk's Certificate to foregoing transcript omitted in printing.

[fols. 117-118] SUPREME COURT OF THE UNITED STATES

[Title omitted]

ORDER EXTENDING TIME TO FILE PETITION FOR WRIT OF
CERTIORARI—Filed June 23, 1954

UPON CONSIDERATION of the application of counsel for
petitioner,

IT IS ORDERED that the time for filing petition for writ of
certiorari in the above-entitled cause be, and the same is
hereby, extended to and including August 14, 1954.

SHERMAN MINTON,
*Associate Justice of Supreme
Court of the United States.*

Dated this 28 day of June, 1954.

[fols. 119-120] [File endorsement omitted.]

[fol. 121] SUPREME COURT OF THE UNITED STATES

[Title omitted]

ORDER ALLOWING CERTIORARI—Filed October 14, 1954

The petition herein for a writ of certiorari to the United
States Court of Appeals for the Seventh Circuit is granted,
and the case is transferred to the summary calendar.

And it is further ordered that the duly certified copy of
the transcript of the proceedings below which accompanied
the petition shall be treated as though filed in response to
such writ.